



OFFICE OF RESEARCH AND EDUCATION ACCOUNTABILITY

**STUDENT RETENTION POLICIES:
TENNESSEE AND OTHER STATES**



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Introduction

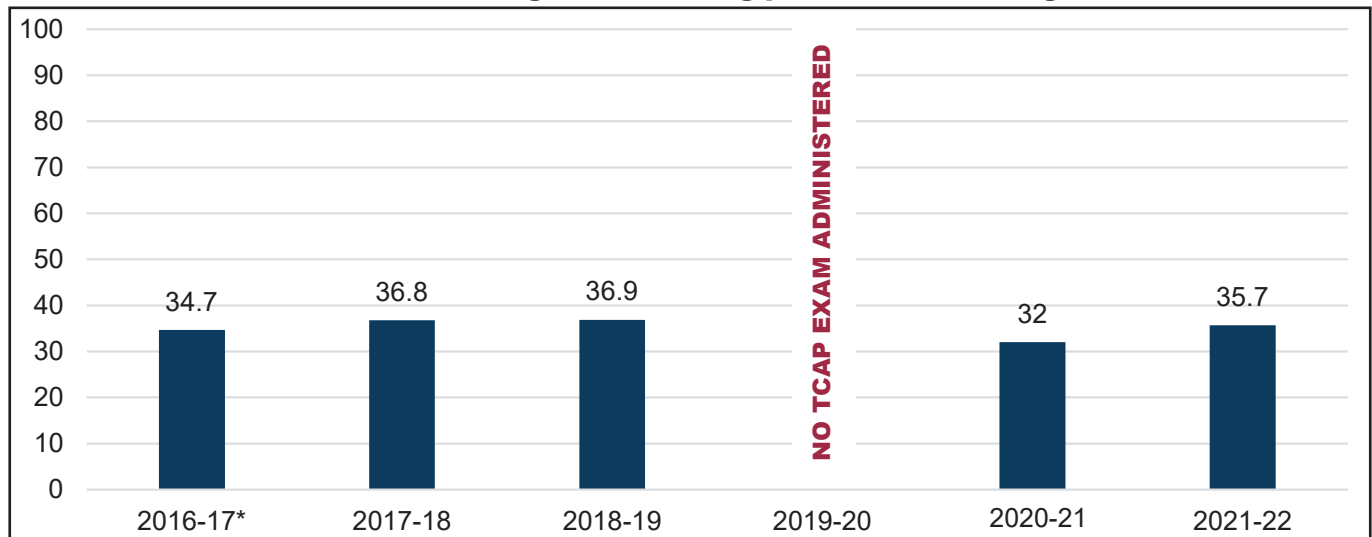
In 2021, the General Assembly passed legislation updating 4th grade promotion requirements for 3rd graders. Under the new law, 3rd graders who do not achieve grade-level proficiency on the English language arts (ELA) portion of the spring TCAP^A assessment are identified for possible retention. Not all those identified will ultimately be retained, however. Students who successfully participate in summer learning and/or tutoring opportunities, or who attain a high enough score on a TCAP retake, will be promoted to 4th grade. In addition, some students will qualify for exceptions under the law, and parents can appeal local retention decisions.^B

Third grade is an important point in a student's education, as it is at this point that students are expected to transition from "learning to read" to "reading to learn." Proficiency in reading in 3rd grade is correlated with higher rates of high school completion, socioeconomic status, and lifelong health and wellness. Conversely, students who struggle to meet reading standards in 3rd grade are at higher risk of negative long-term outcomes.¹

Tennessee passed retention legislation more than a decade ago, but the changes made to state law in 2021 are more prescriptive for districts.

This legislative brief examines recent retention legislation in Tennessee, considers the experiences of other states that have also passed retention requirements, and identifies the variables that will influence how many 3rd graders are likely to be retained in 2023.

Exhibit 1: Percent of Tennessee 3rd graders scoring proficient in reading



Notes: Due to COVID-19 disruptions, TCAP exams were not administered during the spring 2019-20 exam session, resulting in no literacy data for the school year.

*Following the 2015-16 school year, Tennessee changed the standardized assessment for 3rd grade students to align to more rigorous standards, accounting for the drop in the percent of students reading on grade level in 2016-17.

Sources: OREA graph from Tennessee Department of Education, *Setting the Foundation: A report on Elementary Grades Reading in Tennessee*, University of Tennessee, Knoxville, *A Landscape Analysis of Foundational Literacy Skills in Tennessee*, PreK to Grade 5, April 14, 2022; Tennessee Department of Education, 2022 TCAP Release, June 2022.

In response to ongoing concerns about 3rd grade literacy rates, Tennessee has implemented several initiatives over the years, including Response to Instruction and Intervention (RTI²), Read to be Ready, and Reading 360. The emergence of the pandemic intensified existing concerns about 3rd grade reading proficiency rates, however. In September 2020, Governor Bill Lee and the Tennessee Department of Education (TDOE) released data projecting a 50 percent decrease in 3rd grade reading proficiency rates due to learning loss resulting from school shutdowns during the COVID-19 pandemic.² In response to the projections, in 2021

^A The student assessments that make up the Tennessee Comprehensive Assessment Program (TCAP) measure students' skills in English language arts, math, science and social studies.

^B See page 5 for an explanation and list of good cause exceptions in Tennessee.

the General Assembly passed the Tennessee Learning Loss Remediation and Student Acceleration Act, which amended Tennessee law regarding the promotion and retention of 3rd grade students.^C

T.C.A. 49-6-3115 requires any 3rd grade student who does not achieve grade-level proficiency on the ELA portion of their TCAP exam to be retained, unless the student can meet specific criteria.

School district officials have raised concerns about the number of current 3rd graders who may be retained as the law's retention provisions go into effect. It is unknown at publication of this report how many 3rd grade students will be retained. TCAP scores from the most recently completed school year provide some idea of how many students may be identified as *eligible* for retention, though. Sixty-four percent (approximately 45,870 students^D) of 3rd graders would have been identified for possible retention had the 2021 retention law been in effect for the 2021-22 school year.³ Not all of these students would have been retained, however, as this number encompasses all students who scored below proficient without the application of any exceptions or interventions.

Tennessee passed retention legislation in 2011.

In 2011, the General Assembly passed T.C.A 49-6-3115 to address “social promotion,” a term that refers to the promotion of a low-performing student to the next grade to keep the student aligned with their peers and prevent social alienation. The law required 3rd grade students to display a basic understanding of curriculum and ability to perform skills in the subject of reading through grades or test scores before being promoted to the 4th grade.⁴ Students could avoid retention by participating in a research-based intervention approved by their school district. Under this law, districts were not required to use interventions approved by TDOE or to report on the interventions used and their effectiveness.

In 2018, the State Board of Education established a retention policy.

A 2018 State Board of Education (SBE) policy set minimum standards statewide for promotion and retention with the expectation that districts would add district specific requirements at the local level. The policy built upon the 2011 retention law by presenting factors that should and should not be used by school districts to consider a child for retention.⁵

The policy outlines promotion and retention guidelines for students in grades K-8 and provides examples of evidence-based strategies for students identified for retention. The examples of evidence-based strategies identified in the policy include Response to Instruction and Intervention (RTI²), extended learning time beyond the regular school day or school week, tutoring, attendance support, or other personalized programming. Districts are not required to report the strategies used or the effectiveness of those strategies to the state. Progress made by retained students, however, must be reported to the student's parents a minimum of three times per year.

The policy clarifies that decisions on retention for students with disabilities should be made in consultation with the student's individualized education program (IEP) team.

Tennessee's 2021 retention law requires 3rd graders to score proficient in English language arts.

Under the changes made to the retention law in 2021, students who do not receive a proficient score on the ELA portion of their 3rd grade TCAP assessment are identified for possible retention, except for students who qualify for exceptions. Students who have not received a proficient score fall into one of two performance categories: the *approaching expectations* category or the *below expectations* category. Students in both categories must participate in interventions, but the intervention requirements differ by category.^E

^C During the 2021 special legislative session, the General Assembly also passed the Literacy Success Act. For more information on the LSA, see OREA's report on first year implementation of the law: Review of Literacy Success Act (2022) (tn.gov).

^D Calculated using numbers from TDOE's 2021-22 Annual Statistical Report.

^E Students who score in the *meets expectations* category or the *exceeds expectations* category will be promoted to 4th grade.

Exceeded

Approaching

Students in the *approaching* category can successfully complete one of the following to be promoted to 4th grade:

Met

Summer learning loss bridge camp – The student must complete summer camp after the completion of 3rd grade and before the start of the following school year. Summer camps must include four weeks of camp programming, and each week must include five days of programming lasting for six hours. To be promoted to 4th grade, participating students must maintain a 90 percent attendance rate and must also demonstrate adequate growth based on a test administered at the end of the camp. TDOE presented an updated promotion and retention policy to the SBE for first reading on March 23, 2023, which includes a definition for adequate growth for summer programming. The policy also defines the “pre-test” for summer camps as a student’s spring ELA TCAP and specifies that students in the *approaching* category who do not meet adequate growth but maintain a 90 percent attendance rate may be promoted if the student agrees to TN ALL Corps tutoring for 4th grade. The SBE voted to postpone the first reading of the policy until its next

Approaching

Below

scheduled meeting on May 19, 2023. Participating students who do not meet the attendance requirement or do not demonstrate adequate growth in the summer learning loss bridge camp are to be retained in 3rd grade. According to TDOE, if the student does not meet the required 90 percent attendance during the four weeks of summer learning loss bridge camp, the student may be allowed to make up missed days to reach the 90 percent attendance standard and be promoted to the 4th grade.

Tennessee Accelerating Literacy and Learning Corps (TN ALL Corps) tutoring – For this intervention, 3rd grade students identified for retention but who are promoted to 4th grade must participate in TN ALL Corps tutoring for the entirety of 4th grade. TN ALL Corps tutoring uses a high-dosage, low-ratio format (a minimum of two 30-minute tutoring sessions per week, in small groups of no more than three students per tutor). Tutoring may be provided before, during, or after school hours. Further, such students must achieve adequate growth on the 4th grade ELA TCAP to be promoted to 5th grade. If adequate growth is not achieved, the student is retained in 4th grade. The Tennessee Learning Loss Remediation and Student Acceleration Act specifies that 4th grade students shall not be retained more than once.

Retake opportunities

Students in *below* and *approaching* performance categories may retake the TCAP assessment provided by their school to demonstrate proficiency in ELA. Districts will select dates between May 22 through June 5 to provide the retake opportunity, based on their summer camp schedules.

Below

Summer learning loss bridge camp and TN ALL Corps tutoring – Students in the *below* category (the lowest TCAP performance category) who do not qualify for an exception must participate in a summer learning loss bridge camp and a TN ALL Corps tutoring program to be promoted to 4th grade. Students who meet the 90 percent attendance requirement for the summer learning loss bridge camp are promoted to 4th grade and will receive tutoring for the entirety of 4th grade. Students who do not meet the 90 percent attendance requirement may be allowed to make up missed days to reach the 90 percent standard and be promoted to the 4th grade.^F Students in the *below* category are not required to demonstrate adequate growth based on a test administered at the end of the summer learning loss bridge camp to be promoted to 4th grade. Such students must achieve adequate growth on the 4th grade ELA TCAP, however, to be promoted to 5th grade. If adequate growth is not achieved, the student is retained in 4th grade, but shall not be retained in the 4th grade more than once.

^F The updated promotion and retention policy presented by TDOE to the State Board of Education for first reading on March 23, 2023, specifies that students in the *approaching* category who do not meet adequate growth but maintain a 90 percent attendance rate may be promoted if the student agrees to TN ALL Corps tutoring for 4th grade. The State Board voted to postpone the first reading of the policy until its next scheduled meeting on May 19.

Students who do not score proficient may meet one of the retention exceptions.

Under the 2021 law, the following students may receive an exception from being retained:⁶

- students with a documented or suspected disability,
- students with less than two years of English as a second language (ESL) instruction, or
- students who were previously retained at least once in grades K-3.

School districts are responsible for identifying students who meet an exception. Districts must determine on a case-by-case basis whether a student has a suspected disability that impacts reading. In making such a determination, the district should consider the unique needs and circumstances of the individual student and should include educators with knowledge of the student and the student's parents. Students who display characteristics of dyslexia should not always be deemed to have a suspected disability, and therefore are not always exempt from the retention decision.⁷

Parents may appeal retention decisions.

Parents and guardians of students identified for retention based on a 3rd grade ELA TCAP score of *approaching* are eligible to file an appeal with TDOE for their child to be promoted to the 4th grade.⁸ Parents and guardians of students whose score places them in the *below* category, the lowest performance category, may not appeal their retention decision.⁶

After receiving notification that their child has been identified for retention based on their 3rd grade ELA TCAP score, parents and guardians have 14 days to file an appeal with TDOE. TDOE may grant an appeal for the retention decision for students on academic grounds or based on a catastrophic situation. For academic-related appeals, TDOE may grant an appeal in cases where:

- the student demonstrates growth above the national average in basic reading skills. A student can either demonstrate growth on an SBE-approved universal reading screener or on the Tennessee Universal Reading Screener administered by their district or public charter school; *and*
- the student demonstrates growth in standards mastery based on a state-approved standards-based benchmark assessment administered by the student's school.⁹

For catastrophic situation-based appeals, parents and guardians must specify that a catastrophic situation occurred in the days leading up to the 3rd grade ELA TCAP exam. Catastrophic events include, but are not limited to, a death in the immediate family, loss of a family home, or a significant medical diagnosis. Students whose score places them in the *below* category, the lowest performance category, may not appeal their retention decision on either academic grounds or catastrophic situations.^H

Students whose appeals are denied may still be promoted if they successfully participate in summer programming and/or tutoring opportunities, as applicable. If they do not successfully participate, they will be retained.

Universal reading screener

A short assessment of a student's reading skills. Screeners are nationally normed and compare students in the same grade and school year session.

Benchmark assessment

A standards-based assessment of a student's academic progress assessing a subset of grade level standards. Benchmark assessments are typically administered on a quarterly basis.

⁶ Pursuant to State Board of Education rule 0520-01-03-.16, if a K-8 student is identified for retention for a reason other than scoring *below* or *approaching* on the 3rd grade ELA TCAP, the retention decision may be appealed at the local level and will be decided by the district or charter school pursuant to the district or charter school's promotion and retention policy.

^H If a student is selected for retention for a reason other than a low ELA TCAP score, all appeals will be handled at the local level by the district or charter school.

What can be expected from Tennessee's new 3rd grade retention law?

In the years immediately following passage of the state's 2011 law, 3rd grade retention rates remained steady, hovering between 0.9 percent and 1.1 percent, according to an analysis by the Tennessee Education Research Alliance (TERA).¹⁰ After 2015, the retention rate declined. By 2019, the percentage of students statewide retained in 3rd grade was 0.6 percent. In that year, five Tennessee districts retained more than 3 percent of 3rd grade students, while 43 districts retained 0 percent of 3rd graders. For comparison, 2010 data show that districts were retaining an average of 0.9 percent of students, while seven districts retained more than 3 percent.¹¹

Although Tennessee has previously retained low numbers of 3rd graders, students in kindergarten and 1st and 2nd grades are retained at a slightly higher rate. TERA's 2022 report presents data that shows between 2010 and 2017, approximately 10 percent of students were retained at least once prior to entering the 4th grade. These students would be exempt from retention under the 2021 law's good cause exemption stating no student can be retained in the 3rd grade that has been previously retained in grades K-3.

Student outcomes under the earlier 2011 retention law were also analyzed by TERA. Students targeted by the law (students scoring below proficient on their 3rd grade ELA TCAP) had higher reading scores and were less likely to have suspensions in 4th through 8th grades. Only a small percentage of eligible 3rd grade students were actually retained between 2012 and 2015. This analysis found that low-performing students who were not retained also had improved academic outcomes, which TERA attributed to the academic interventions that districts may have provided to these students. In a separate analysis, TERA compared the long-term outcomes of low-performing students retained in 3rd grade compared to low-performing students who were not retained. This analysis found that retained students were slightly more likely to be proficient in reading in 4th through 6th grade but had lower attendance rates in 4th through 12th grade and were more likely to drop out in subsequent years.

Retention laws in other states

As of December 2022, 17 states and the District of Columbia have passed retention laws and implemented retention policies, though each state's specific requirements and exceptions differ.

Florida

Florida implemented a 3rd grade retention requirement beginning with the 2002-03 school year. Third grade students must score at level 2 or above on the state's standardized test to be promoted to 4th grade.¹² Florida uses five performance categories for its standardized test. Students who score at level 3 or above are considered proficient in reading. Students who score below level 2 are identified for retention. Students identified for retention are to receive intensive interventions to address their reading deficiency. Such students are required to attend a summer reading camp provided through their school district. Those students who achieve a score of proficient or above on an alternative assessment administered at the end of summer reading camp may be promoted to 4th grade.

Superintendents and elementary school principals contacted by OREA have concerns about the 3rd grade retention law.

OREA surveyed school superintendents and interviewed a sample of superintendents and elementary school principals about the 3rd grade retention law. Some of the most common concerns were as follows:

- The use of a single indicator (TCAP) to identify a student for retention.
- Uncertainty about the number of 3rd grade students who will participate in interventions successfully, the number who will ultimately be retained, and resources needed for an increased number of students.
- The inclusion of students in the *approaching* category in addition to those in the *below* category.

Florida offers several good cause exemptions to the state's retention requirement.^{1,13} Good cause exemptions are available to students in the following categories:

- Limited English proficient students with less than two years of instruction in English for Speakers of Another Language,
- students with disabilities whose IEP indicates participation in the statewide assessment program is not appropriate,
- students who demonstrate proficiency on an alternative assessment,
- students with a disability and an IEP or Section 504^J plan in place who have received two years of intensive instruction in reading or ELA *and* who were previously retained in grades K-3, and
- students who have received intensive reading intervention for two or more years but still demonstrate a deficiency in reading and who were previously retained in grades K-3 for a total of two years.

Another good cause exemption in Florida is a student portfolio. Student portfolios provide evidence of a student's academic ability using measures other than the state's standardized test. Prior to the administration of the state's annual standardized test in the spring, the parents of students at risk of being retained are notified by school officials. Parents can then request that the school begin collecting evidence of their child's reading proficiency, which will make up the student portfolio.

The portfolio must include at least three examples of the student's mastery on various types of literacy assessments. Teachers submit the student's portfolio to the school principal for review. The principal may then submit a written recommendation to the district superintendent that the student be promoted to the 4th grade. The district superintendent accepts or rejects the principal's recommendation.

Florida allows students retained in 3rd grade to be promoted to 4th grade before completing their second year of 3rd grade if they can demonstrate performance at or above their grade level in reading by November 1.

In the school year prior to implementation of the 3rd grade retention law, Florida had retained 3 percent (6,435 students).^K The percentage retained rose in the first year of implementation (the 2002-03 school year), as 14.4 percent (27,713) of 3rd graders were retained. The state had initially identified 23 percent of 3rd graders for possible retention in the first year of implementation, but not all students identified for retention were ultimately retained.

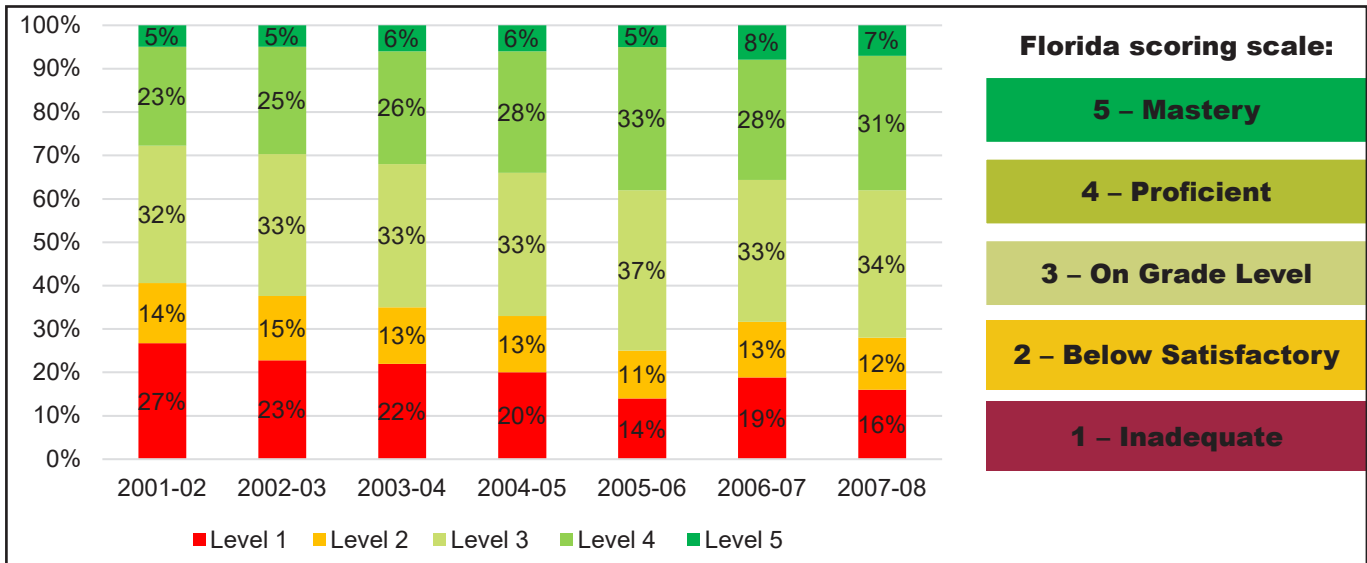
A study of the early years of Florida's retention requirement found students who repeated 3rd grade had better academic performance than similar low-performing students who were not retained.¹⁴ Approximately 65 percent of retained students were no longer in the lowest performance category based on the 4th grade standardized test compared with 44 percent of those who were not retained in 3rd grade. A 2008 report on retention in Florida found a higher percentage of 3rd graders scored above a level 1, the lowest performance level, in the years following implementation of the state's retention law.¹⁵ In the 2001-02 school year, the year preceding implementation of the law, 27 percent of 3rd graders scored a level 1. By the 2007-08 school year, the number of students scoring level 1 had decreased to 16 percent.

^I Tennessee uses the term "exceptions" rather than "good cause exemptions."

^J An Individualized Education Program (IEP) is a written statement that ensures a student with a disability has access to the general education curriculum and is provided appropriate learning accommodations, adaptations, specialized services, and supports needed to progress toward meeting the same learning standards as students without disabilities. Section 504 of the Rehabilitation Act of 1973 is a federal civil rights statute that prohibits discrimination against individuals with disabilities in programs or activities that receive federal funding.

^K Information on retention in Florida was gathered from Florida's historical data on Non-Promotions, 3rd Grade Promotions, and Retentions, which can be found at <https://www.fldoe.org/accountability/data-sys/edu-info-accountability-services/pk-12-public-school-data-pubs-reports/archive.stml>.

Exhibit 2: Percent of Florida 3rd graders scoring at each level

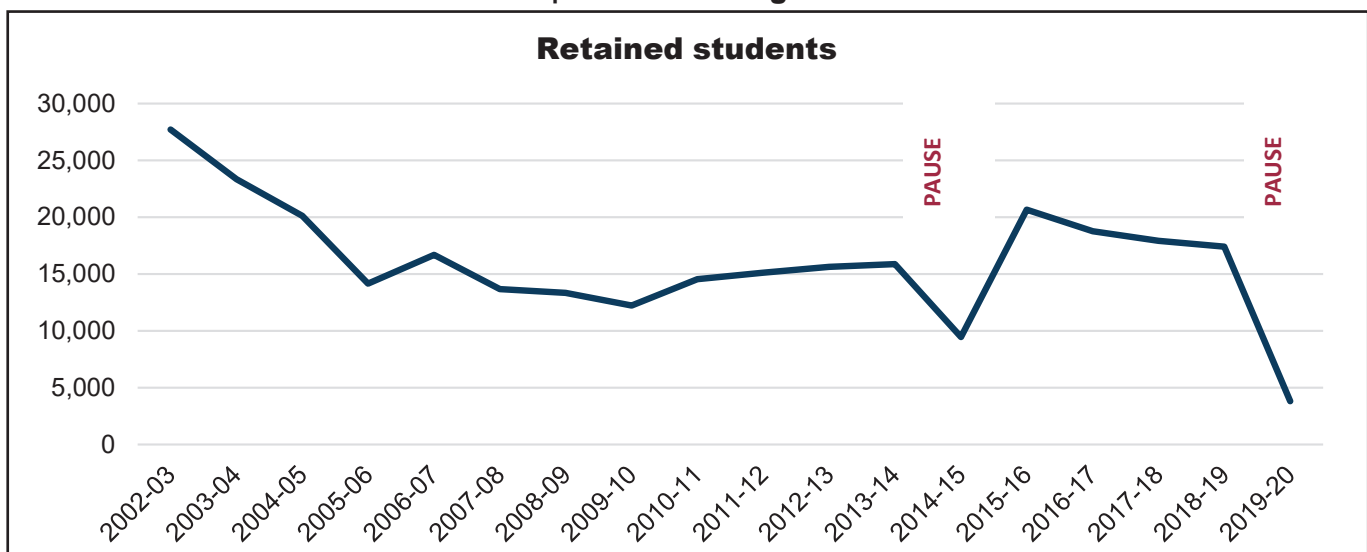


Source: Florida Office of Program Policy Analysis and Government Accountability, The Department of Education Has Taken Initial Steps to Improve Student Progression Data, June 2008.

Following this initial increase in the state’s retention rate, the percentage then decreased. In the 2005-06 school year, 14,151 students (or 8.1 percent of 3rd grade students) were retained. A 2008 Florida study suggested a decrease in retention was due to a combination of factors – including more students being promoted to 4th grade on a good cause exemption or mid-year promotion.¹⁶ In the first year of implementation, 34 percent of students identified for retention were promoted to 4th grade based on a good cause exemption. The following school year 43 percent of students identified for retention were promoted.

After the 2005-06 school year, the percentage of 3rd grade students retained then remained relatively steady for about a decade. A noticeable increase in the percentage occurred in the 2015-16 school year following changes made to the state’s standardized assessment, followed by a steady decline. For the 2018-19 school year, the last school year before the pandemic, 7.9 percent of 3rd grade students were retained.

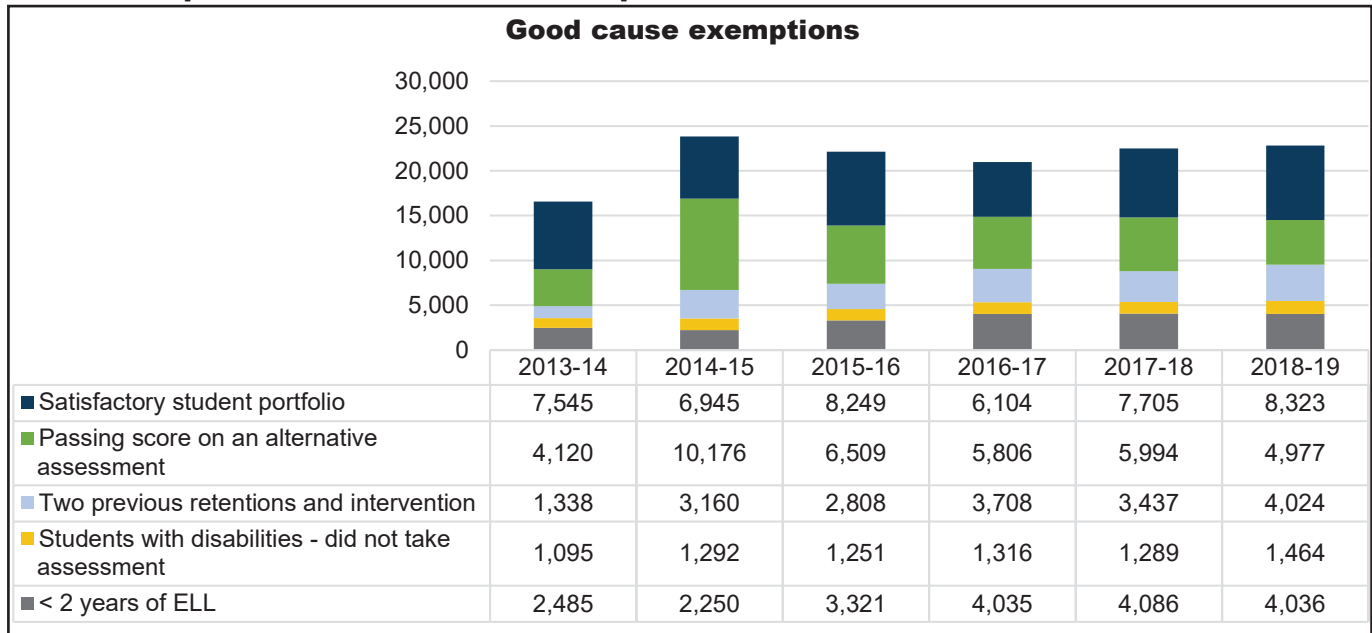
Exhibit 3: Retention trends in Florida | 2002-03 through 2019-20



Source: Florida Department of Education historical data on non-promotions, 3rd grade promotions, and retentions.

Data on the types of good cause exemptions used in the early years of the law is not available, but data from more recent years shows student portfolios were the most common reason for a good cause exemption. For the 2018-19 school year, more students (62 percent) that were identified for retention were promoted based on a good cause exemption than were retained.

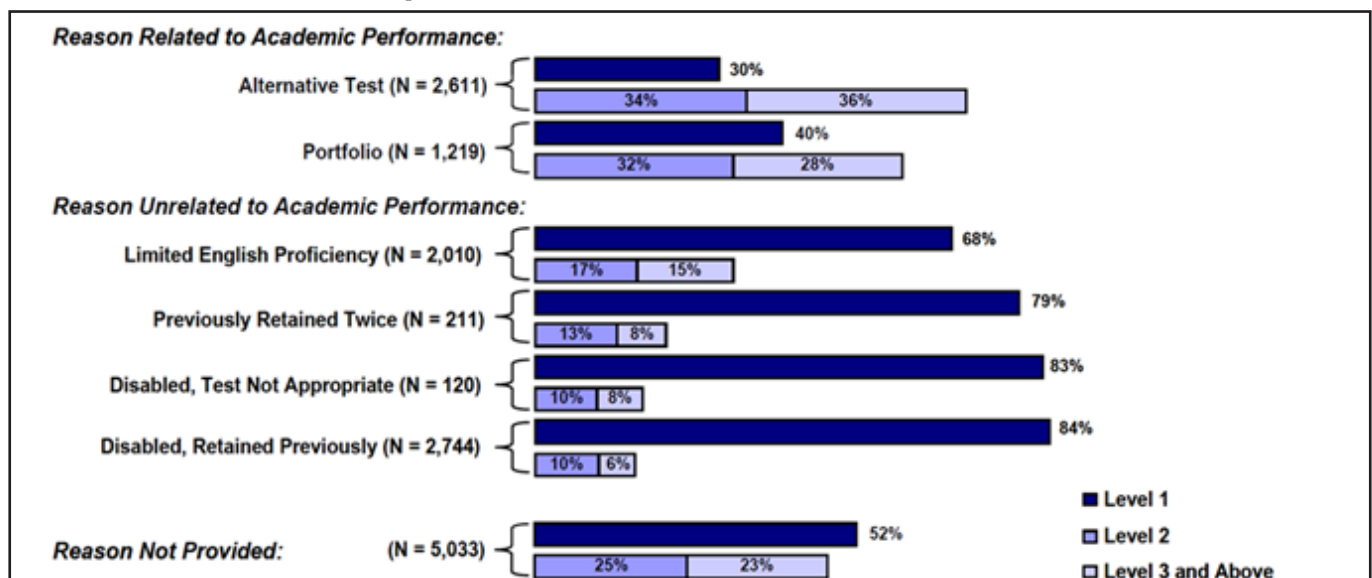
Exhibit 4: Student portfolios have been the most common reason in recent years for a good cause exemption to Florida’s retention requirement



Source: Florida Department of Education historical data on non-promotions, 3rd grade promotions, and retentions.

In general, students identified for retention who received a good cause exemption and were promoted to 4th grade did not perform as well on the state’s 4th grade state standardized assessment as retained students.¹⁷ Students who received an academic-related good cause exemption, such as passing an alternative assessment, which typically refers to a test taken after a student has completed a summer reading camp, or demonstrating they met grade-level standards through a student portfolio, performed better in the 4th grade than students who received a non-academic good cause exemption (e.g., disability status).

Exhibit 5: Florida students who received an academic-related exemption to the retention requirement had higher scores on the state’s 4th grade test than students who received a nonacademic-related exemption



Source: Florida Office of Program Policy Analysis and Government Accountability, *Third Grade Retention Policy Leading to Better Student Performance Statewide*, October 2006.

Mississippi

Mississippi passed the Literacy Based Promotion Act in 2013, which required 3rd grade students who scored in the lowest achievement category in reading on the state's annual standardized test to be retained unless they meet certain criteria. The law also established provisions for how 3rd graders with a reading deficiency could be promoted. The law's requirements were first implemented in the 2014-15 school year.

In 2016, legislators expanded the law's reach, extending the retention requirement to also include students who scored in the next-to-lowest achievement category, beginning with the 2018-19 school year. The state suspended its retention requirement for the 2019-20 and 2020-21 school years in response to the COVID-19 pandemic. The retention requirement went back into effect in the 2021-22 school year. Mississippi offers several good cause exemptions to the state's retention requirement. Good cause exemptions are available to students in the following categories:

- Limited English proficient students with less than two years of instruction in an English Language Learners program;
- students with disabilities whose IEP indicates participation in the statewide assessment program is not appropriate;
- students with disabilities who participate in the state's annual accountability assessment who have an IEP or Section 504 plan that reflects either that the student has received intensive remediation for more than two years but still demonstrates a deficiency in reading or that the student was previously retained in grades K-3;
- students who demonstrate an acceptable level of reading proficiency on an alternative assessment; and
- students who have received intensive intervention in reading for two or more years but still demonstrate a deficiency in reading and who were also previously retained in any of grades K-3 for a total of two years.¹⁸

The process for a student to be approved for a good cause exemption is similar to the process used in Florida. The student's teacher must collect the necessary documentation (e.g., evidence of previous retention, proof of participation in intensive remediation in reading, etc.) and submit an application for a good cause exemption to the principal. If the principal determines that the student qualifies for a good cause exemption, the principal then submits a written recommendation to the district superintendent, who accepts or rejects the recommendation.

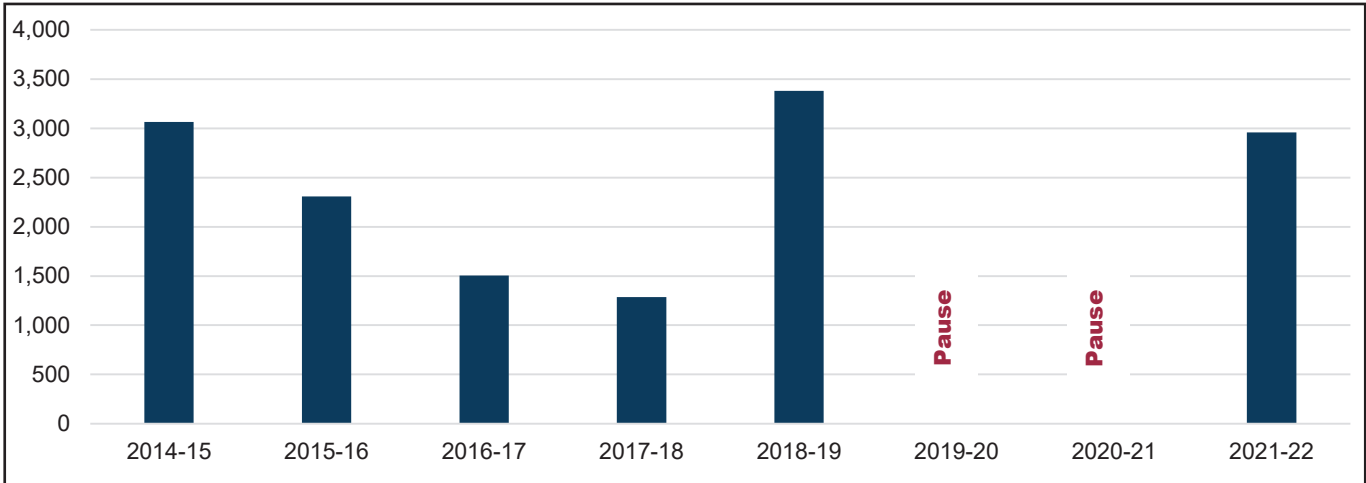
In the initial year of 3rd grade retention requirements, Mississippi first identified 21.3 percent of 3rd graders for retention based on assessment scores. The state ultimately retained 8.1 percent of all 3rd graders (3,604 students).

The percentage retained decreased in the years following the law's implementation. Less than 5 percent of the state's 3rd graders (1,285 students) were retained in the 2017-18 school year.¹

For the 2018-19 school year, there was a significant increase in the number of students retained as Mississippi expanded the retention requirement to also include students who scored in the next-to-lowest achievement category. Prior to the 2018-19 school year, the retention requirement only applied to students who scored in the lowest achievement category. The state retained 3,379 students for the 2018-19 school year, or 9.6 percent of all 3rd grade students.

¹ Information on retention in Mississippi was gathered from Mississippi's Literacy Based Promotion Act Annual Reports, which can be found at Reports | The Mississippi Department of Education (mdek12.org).

Exhibit 6: Retention trends in Mississippi | 2014-15 through 2021-22

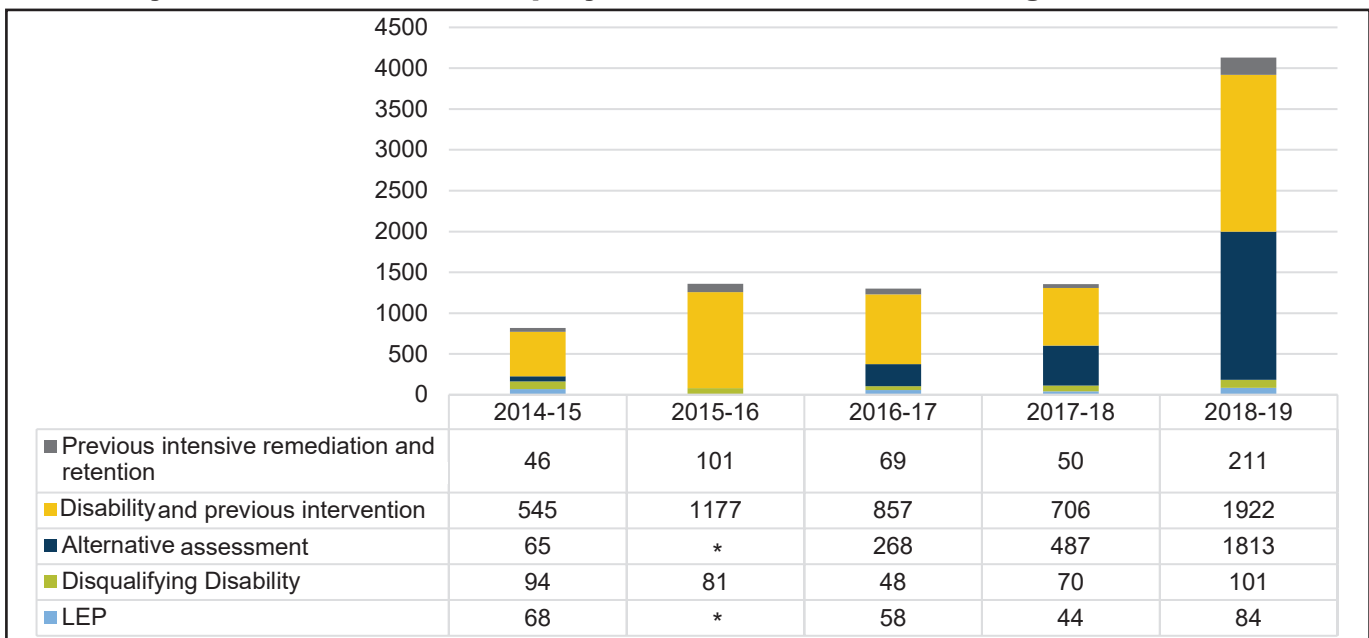


Notes: (1) The state suspended its retention requirement for the 2019-20 and 2020-21 school years in response to the COVID-19 pandemic. The retention requirement went back into effect in the 2021-22 school year.
 (2) Students who scored in the next-to-lowest performance category on the state's annual standardized test were also identified for retention beginning with the 2018-19 school year. Prior to that school year, only students who scored in the lowest performance category were identified.
 Source: Mississippi Department of Education, Literacy-Based Promotion Act Annual Reports.

Mississippi awarded good cause exemptions to 818 students in the initial year of 3rd grade retention requirements. In the following years, when Mississippi limited the retention requirement to students scoring at the lowest level, the state awarded an average of 1,227 good cause exemptions. When Mississippi changed the law to also include students scoring at the next-to-lowest level to be retained, 4,131 good cause exemptions were awarded.

The most common good cause exemption in Mississippi has been for students with disabilities who have received multiple years of intervention in reading or a previous retention. Beginning with the 2016-17 school year, the second most common good cause exemption has been for students who have demonstrated an acceptable level of reading proficiency on an alternative assessment. These two good cause exemptions accounted for 90 percent of all exemptions in the 2018-19 school year.

Exhibit 7: The most common good cause exemption in Mississippi has been for students with a disability who have received multiple years of remediation in reading

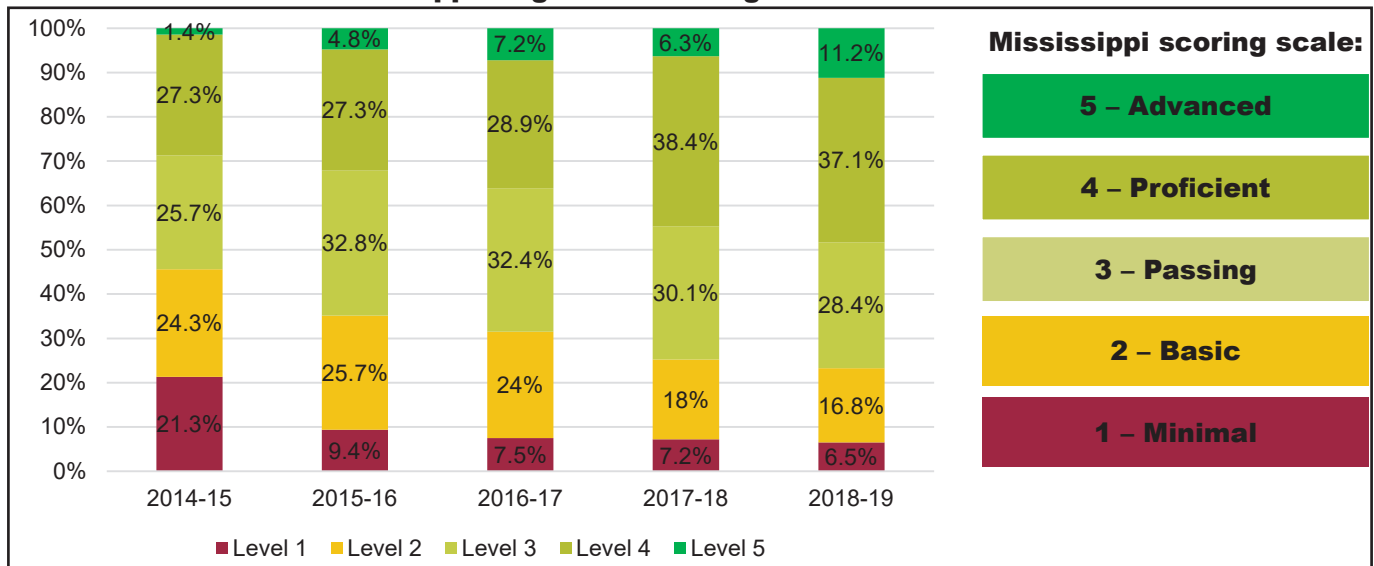


Note: *Accurate amounts for the number of students promoted on good cause exemptions for alternative assessments or limited English proficiency for the 2015-16 school year are not available because the data was either not reported or was reported as being less than 5 percent of total good cause exemptions for that school year.
 Source: Mississippi Department of Education, Literacy-Based Promotion Act Annual Reports.

Apart from good cause exemptions, students may also retake the state’s annual standardized assessment if a higher score is needed to be promoted to 4th grade. Students are provided with two retest windows. Between the 2014-15 and 2017-18 school years, an average of 4 percent of 3rd grade students who initially failed the annual assessment were promoted after passing a retake assessment.

The percentage of students scoring at the lowest two levels on the state’s standardized assessment decreased following implementation of the retention requirement. In the initial year of Mississippi’s 3rd grade retention requirement, 21.3 percent of students scored in the level 1 category, the lowest level. By the 2018-19 school year, 6.5 percent of students scored in the level 1 category.

Exhibit 8: Percent of Mississippi 3rd graders scoring at each level



Note: On the ELA assessment, although students scoring at level 3 are considered passing, only students scoring at levels 4 and 5 are considered proficient.
 Source: Mississippi Department of Education Literacy-Based Promotion Act Annual Reports.

How does Tennessee’s 2021 retention law compare to Florida and Mississippi’s laws?

Tennessee’s 2021 law applies to a larger number of 3rd grade students. Florida and Mississippi’s 3rd grade retention laws began by identifying students in the lowest of five performance categories for retention. Mississippi later changed its law to identify students in the lowest and next-to-lowest of the five performance categories. Tennessee’s 2021 retention law identifies students in the lowest and next-to-lowest of four performance categories for retention.

The year Florida implemented a 3rd grade retention requirement, 23 percent of 3rd grade students scored level 1 and were identified for retention. Florida ultimately retained 14.4 percent of 3rd graders the first year under the law. Mississippi identified 21.3 percent of 3rd graders for retention and ultimately retained 8.1 percent. In the 2021-22 school year, approximately 64 percent of Tennessee’s 3rd grade students scored *below* or *approaching* on the ELA section of their TCAP assessment. Had Tennessee’s retention law gone into effect for the 2021-22 school year, 64 percent of 3rd graders would have been initially identified as eligible for retention.

There are differences in the exceptions to the retention requirement. Students in Tennessee can qualify for an exception if they have a documented disability or suspected disability, whereas students with disabilities in Florida and Mississippi must meet other criteria, such as being exempted from the state standardized test, having received previous reading remediation, or a previous retention. Students in Tennessee who have been previously retained qualify for an exception based on that status alone, while previously retained students in Florida and Mississippi must meet additional criteria. Florida allows for the midyear promotion of students retained in 3rd grade if the student can prove proficiency.

Third grade students in Florida can qualify for an exception through a student portfolio, a collection of evidence of a student's academic ability using measures other than the state's standardized test. Portfolios are gathered by the student's teacher and approved by the school principal and district superintendent. Tennessee does not allow portfolios as a specific exception or such academic-related exceptions in general. However, a student's retention status may be appealed based on academic grounds.^M TDOE may grant an academic-related appeal based on a student's universal reading scores and benchmark assessments.

Tennessee and Florida both require students who are not proficient to attend summer programming.

Both states also allow students to be promoted to the 4th grade if they can prove proficiency at the end of the summer camp on an alternative assessment or post-test. Florida classifies these students as receiving a good cause promotion under an alternative assessment. In Tennessee, students must also meet certain requirements for participating in the summer camp to receive a promotion through summer programming. Tennessee also allows students to be promoted by agreeing to tutoring for the entirety of 4th grade.

Ohio

Under Ohio's 2012 retention law, 3rd grade reading skills are initially assessed in the fall of students' 3rd grade year. Those who do not attain proficiency on the fall assessment receive a reading improvement and monitoring plan and must score proficient on a subsequent administrations of the state standardized exam to be promoted. Prior to the beginning of each school year, the Ohio State Board of Education sets a proficiency score that each 3rd grade student must meet to be promoted. The score that students must meet increases each year.

Students who score below proficient on the state's standardized exam can receive a good cause exemption if they fall into one of the following categories:

- a student who is an English learner enrolled in U.S. schools for less than three full years and with less than three years of instruction in an ESL program,
- a student whose IEP specifically exempts them from retention under the law,
- a student who demonstrates reading competency on an alternative assessment for reading approved by the Ohio Department of Education,
- a student who was previously retained in grades K-3 and whose IEP shows they have received intensive remediation in reading for two years, and
- a student previously retained in grades K-3 who has received intensive remediation in reading for two years;
 - such students must continue to receive intensive reading instruction in 4th grade.¹⁹

Students who do not attain proficiency in reading and do not qualify for a good cause exemption are retained in the 3rd grade. Each school district provides retained students with remediation services that include:

- small group instruction;
- placement in the classroom of a high-quality teacher;
- reduced student-teacher ratios;
- more frequent progress monitoring;
- tutoring or mentoring;
- transition classes containing 3rd and 4th grade students;
- an extended school day, week, or year; and
- summer reading camps.²⁰

^M Students who score *below* cannot appeal a retention decision.

School districts are required to establish a policy allowing for the midyear promotion of students retained in 3rd grade. School districts are also required to report annually to the governor and the general assembly on the types of intervention services offered and, if available, the efficacy of the intervention services provided. The number and percentage of students in grades K-4 reading below grade level must also be reported annually by school districts.

A decade after passage of the law in 2012, the Ohio House of Representatives passed legislation repealing the state's 3rd grade retention requirement. Sponsors of the bill cited stagnant student performance on state standardized exams and on the National Assessment of Educational Progress (NAEP) as reasons for repeal. As of March 1, 2023, the legislation was being considered by a committee of the Ohio Senate.

Conclusions

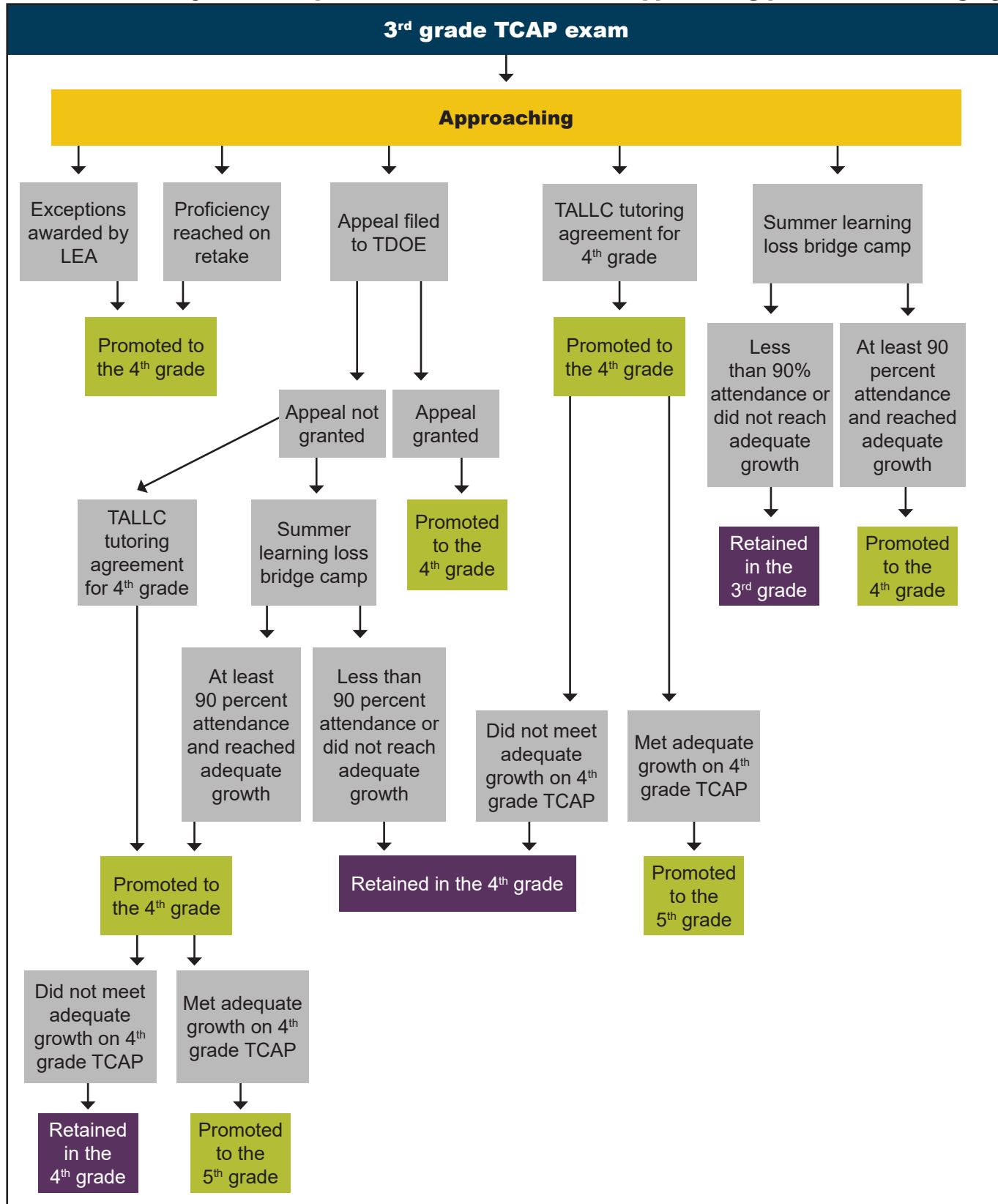
Multiple variables will factor into the number of 3rd graders who will ultimately be retained by Tennessee schools. The precise number is unknown at this time.

Variables include:

- the number of students who meet one of the following exceptions in the law:
 - students with a documented disability or suspected disability that impacts reading,
 - English learner students with less than two years of English language arts (ELA) instruction, or
 - students who have been previously retained at least once in grades K-3.
- the number of students who do not qualify for an exception and score in the *below* performance category or the *approaching* performance category on the Spring 2023 ELA TCAP:
 - the number of students who retake the TCAP and do not score in the *meets expectations* category or the *exceeds expectations* category.
 - the number of students in the *below* performance category who do not meet the attendance requirement for the summer programming.
 - the number of students in the *approaching* performance category who choose to attend a summer learning loss bridge camp and either:
 - do not meet the attendance requirement, or
 - do not demonstrate adequate growth based on a test administered at the end of the camp.
- the number of retention appeals submitted by parents and approved by TDOE:
 - parents must submit an appeal with all required documents to TDOE within 14 days of a retention decision;
 - only students in the *approaching* performance category may appeal; students in the *below* performance category may not appeal.

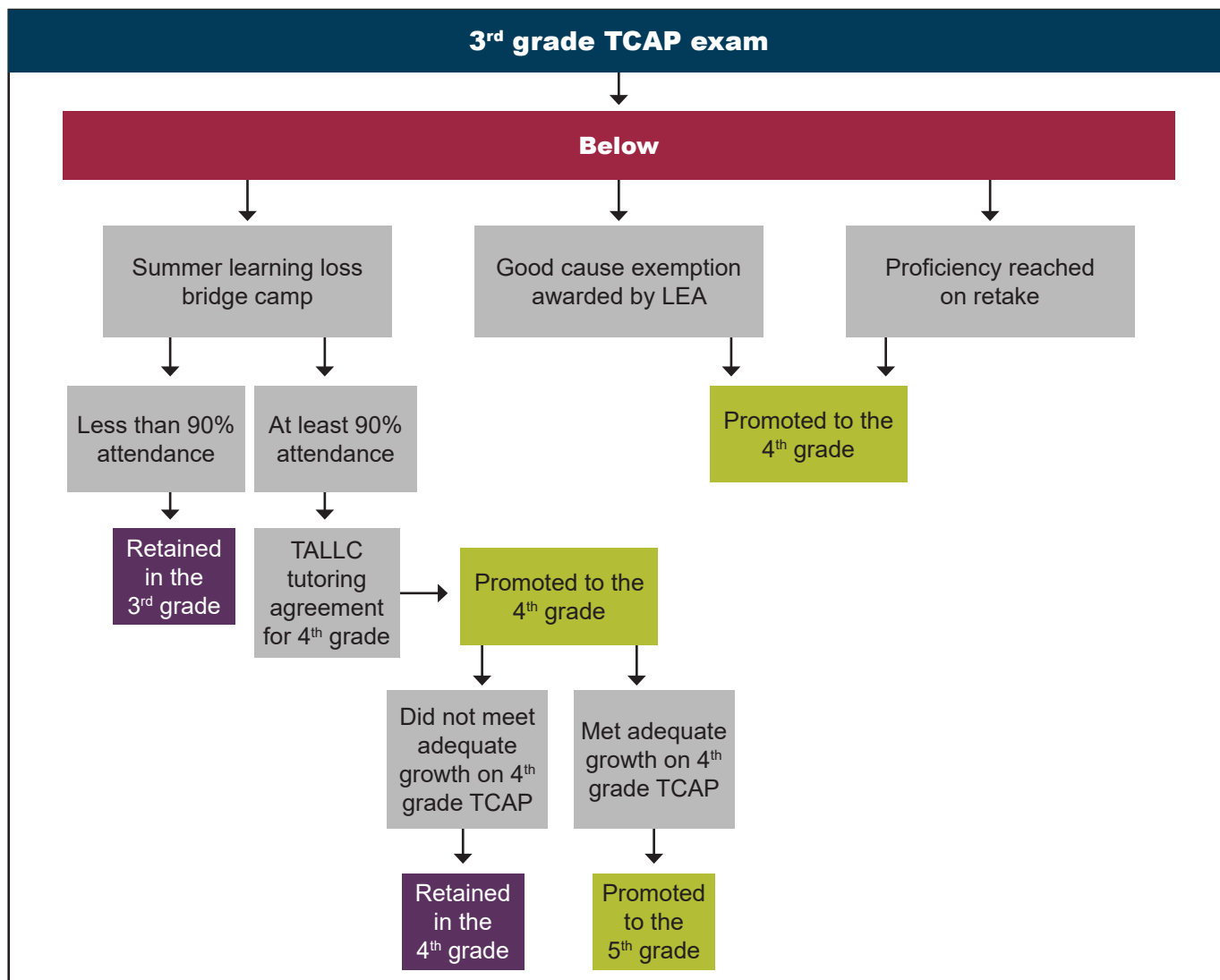
Exhibit 9 shows the various paths that can be followed by students who score in the below performance category or the approaching performance category.^N

Exhibit 9: Pathways towards promotion for students in the *approaching* performance category



^N Students who score in the meets expectations category or the exceeds expectations category are promoted to 4th grade.

Exhibit 10: Pathways towards promotion for students in the *below* performance category



Tennessee’s 3rd grade retention-related data collection and reporting requirements are minimal compared with Florida and Mississippi.

Requirements for data collection are written into the laws of both Florida and Mississippi. Each state’s Department of Education also compiles the information into a report and publishes statewide and district information on each department’s website.

Tennessee’s 2021 Learning Loss Remediation and Student Acceleration Act requires TDOE to present the following in a report to the Governor and General Assembly each year:

- a report on summer learning loss bridge camps, including data on pre- and post-test results;
- an analysis (linking pre- and post-test data from summer learning loss bridge camps to teacher effectiveness scores); and
- information from school districts regarding any staffing issues with the summer learning loss bridge camps.²¹

Tennessee law does not require any additional retention-related data collection or reporting. Florida and Mississippi, however, mandate annual data collection and reporting of various retention-related measures. Both states require this data to be posted on websites at the state and local level.

Florida requires the following data to be collected and reported annually:

- by grade, the number and percentage of all students in grades 3 through 10 performing at levels 1 and 2 on the statewide standardized ELA assessment;
- by grade, the number and percentage of all students retained in kindergarten through 10th grade; and
- the total number of students who received a good cause exemption, by good cause category.

Mississippi's data collection and reporting requirements include the following measures:

- by grade, the number and percentage of all students retained in kindergarten through 8th grade;
- by grade, the number and percentage of students who take an approved alternative standardized reading assessment and their performance; and
- the total number of students who received a good cause exemption, by good cause category.

Policy consideration

The General Assembly may wish to require more retention-related data reporting from local school districts and TDOE.

The following data could be collected and reported on an annual basis:

- by grade, the number and percentage of all students retained in kindergarten through 8th grade;
- the total number of students who an exception for retention in the law, by exception;
- the number of retention decision appeals submitted, and the number of appeals awarded, by type (i.e., academic grounds or catastrophic situation);
- attendance rates for the summer learning loss summer bridge camps, by TCAP performance category (*below* and *approaching*);
- the number and percentage of students in the *approaching* TCAP performance category who demonstrate adequate growth based on the test administered at the end of a summer learning loss bridge camp;
- for students identified for retention who receive tutoring in the 4th grade:
 - the number and percentage who meet the tutoring requirements (e.g., attendance at a minimum of two 30-minute tutoring sessions per week, etc.) and
 - the number and percentage who demonstrate adequate growth on the 4th grade ELA TCAP.

Such data collection and reporting would provide state legislators and others with information to factor into future decisions about retention policies.

Endnotes

- ¹ Tennessee Department of Health, *3rd Grade Reading Level*, <https://www.tn.gov/health/health-program-areas/tennessee-vital-signs/redirect-tennessee-vital-signs/vital-signs-actions/3rd-grade-reading-level.html>.
- ² Tennessee Department of Education, *2021 Special Legislative Session*, <https://www.tn.gov/education/top-links/2021-special-session-legislation.html>.
- ³ Tennessee Department of Education, *2022 TCAP Release*, June 2022.
- ⁴ *Tennessee Code Annotated* 49-6-3115 (2012).
- ⁵ Tennessee State Board of Education, Policy 3.300 (2018).
- ⁶ *Tennessee Code Annotated* 49-6-3115(a)(2).
- ⁷ Tennessee Department of Education, *Third Grade Promotion FAQs*.
- ⁸ *Tennessee Code Annotated* 49-6-3115(d).
- ⁹ State Board of Education Rules, Chapter 0520-01-03(7)(f).
- ¹⁰ Tennessee Education Research Alliance, *Early Literacy and Student Grade Retention in Tennessee: Evaluating Longitudinal Patterns and Legislative Changes in Retention Policy*, July 2022.
- ¹¹ Tennessee Education Research Alliance, *Early Grades Retention in Tennessee: Research review for the Tennessee State Board of Education*, February 2022.
- ¹² Florida Statutes XLVIII-1008-25 (5)(b), 2018.
- ¹³ Florida Statutes XLVIII-1008-25 (8)(b), 2018.
- ¹⁴ Florida Office of Program Policy Analysis and Government Accountability, *Third Grade Retention Policy Leading to Better Student Performance Statewide*, October 2006.
- ¹⁵ Florida Office of Program Policy Analysis and Government Accountability, *The Department of Education Has Taken Initial Steps to Improve Student Progression Data*, June 2008.
- ¹⁶ Florida Office of Program Policy Analysis and Government Accountability, *Third Grade Retention Policy Leading to Better Student Performance Statewide*, October 2006.
- ¹⁷ *Ibid.*
- ¹⁸ Mississippi Code 37-177-17 (2020).
- ¹⁹ Ohio Revised Code 3313.608(2) (2021).
- ²⁰ Ohio Revised Code 3313.608(3) (2021).
- ²¹ *Tennessee Code Annotated* 49-6-3115(d) (2021).

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