

Chapter 101. Assessment

Subchapter CC. Commissioner's Rules Concerning Implementation of the Academic Content Areas Testing Program

Division 1. Implementation of Assessment Instruments

§101.3011. Implementation and Administration of Academic Content Area Assessment Instruments.

- (a) The Texas Education Agency (TEA) shall administer each assessment instrument under the Texas Education Code (TEC), §39.023(a), (b), (c), and (l), and §39.0238, in accordance with the rules governing the assessment program set forth in Chapter 101 of this title (relating to Assessment).
- (1) Except as required for purposes of federal accountability as allowed by subsection (e) of this section, a Grade 3-8 student shall not be administered a grade-level assessment if the student:
- (A) is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under the TEC, §39.023(a), that aligns with the curriculum for that course or subject within the same content area; or
- (B) is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an end-of-course assessment instrument developed under the TEC, §39.023(c), that aligns with the curriculum for that course or subject within the same content area.
- (2) A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is receiving instruction in the entire curriculum for that subject.
- (3) As specified in the TEC, §28.0211(p), a Grade 5 or 8 student described by paragraph (1)(A) or (B) of this subsection may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument above the student's grade level.
- (b) As allowed by 34 Code of Federal Regulations, §200.6, the TEA shall administer alternative assessment instruments under the TEC, §39.023(b), that correspond to:
- (1) the assessment instruments required under the TEC, §39.023(a); and
- (2) the following assessment instruments required under the TEC, §39.023(c): English I, English II, Algebra I, biology, and U.S. history.
- (c) The TEA shall administer each appropriate assessment under the TEC, §39.023, as that section existed before amendment by Senate Bill 1031, 80th Texas Legislature, 2007.
- (d) Test administration procedures shall be established by the TEA in the applicable test administration materials. A school district, an open-enrollment charter school, or a private school administering the tests required by the TEC, Chapter 39, Subchapter B, shall follow procedures specified in the applicable test administration materials.
- (e) In accordance with House Bill 411, Section 5, 78th Texas Legislature, 2003, this subsection is adopted by the commissioner of education for the implementation of the TEC, §39.023(a)(6). The TEA shall administer to students assessments in any other subject and grade required by federal law.

Statutory Authority: The provisions of this §101.3011 issued under the Texas Education Code, §§7.021, 28.0211, 39.023, 39.0231, 39.0238, 39.025, and 39.028; and 34 Code of Federal Regulations, §200.6.

Source: The provisions of this §101.3011 adopted to be effective May 29, 2012, 37 TexReg 3827; amended to be effective March 14, 2013, 38 TexReg 1679; amended to be effective March 2, 2014, 39 TexReg 1150.

§101.3012. Parent Notification.

- (a) The superintendent of each school district and chief administrative officer of each charter school shall be responsible for the following in order to provide timely and full notification of graduation requirements:
 - (1) notifying each student and his or her parent or guardian in writing no later than the beginning of the student's seventh-grade year of the testing requirements for graduation;
 - (2) notifying each student in Grades 7-12 new to the school district or charter school and his or her parent or guardian in writing of the testing requirements for graduation; and
 - (3) notifying each student who shall take the tests required for graduation and his or her parent or guardian, as well as out-of-school individuals, of the dates, times, and locations of testing.
- (b) The superintendent of each school district and chief administrative officer of each charter school shall be responsible for the following in order to provide timely and full notification of testing requirements for advancement at certain grades:
 - (1) notifying each student and his or her parent or guardian in writing no later than the beginning of the student's first-grade year or no later than the beginning of the student's kindergarten year, for students attending kindergarten in a public school, of the testing requirements for grade advancement as specified in the Texas Education Code, §28.0211;
 - (2) notifying each student in Grades 1-8 who is new to the school district or charter school and his or her parent or guardian in writing of the testing requirements for grade advancement; and
 - (3) notifying each student required to take the grade advancement tests of the dates, times, and locations of testing.

Statutory Authority: The provisions of this §101.3012 issued under the Texas Education Code, §§7.021, 28.0211, 39.023, 39.0231, 39.025, and 39.028.

Source: The provisions of this §101.3012 adopted to be effective March 14, 2013, 38 TexReg 1679.

§101.3013. Accommodations.

- (a) Testing accommodations on the assessments administered under the Texas Education Code (TEC), Chapter 39, Subchapter B, are permitted for any student unless they would make a particular test invalid. Decisions regarding testing accommodations shall take into consideration the needs of the student and the accommodations the student routinely receives in classroom instruction.
- (b) For a student receiving special education services, the admission, review, and dismissal (ARD) committee shall determine the allowable accommodations necessary for the student to take the assessments administered under the TEC, Chapter 39, Subchapter B, and shall document them in the student's individualized education program.
- (c) Permissible testing accommodations shall be described in the appropriate test administration materials.

Statutory Authority: The provisions of this §101.3013 issued under the Texas Education Code, §§7.021, 28.0211, 39.023, 39.0231, 39.025, and 39.028.

Source: The provisions of this §101.3013 adopted to be effective March 14, 2013, 38 TexReg 1679.

§101.3014. Scoring and Reporting.

- (a) The superintendent of a school district or chief administrative officer of each charter school shall accurately report all test results as required by the Texas Education Code (TEC), §39.030, with appropriate interpretations, to the school district board of trustees according to the schedule in the applicable test administration materials.
- (b) A school district, charter school, or private school that administers criterion-referenced tests under the TEC, Chapter 39, Subchapter B, shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements in the TEC, §39.030.

- (c) All test results shall be included in each student's academic record and shall be furnished for each student transferring to another school district, charter school, or private school.
- (d) The scoring contractor will provide school districts with the results of the machine-scorable assessments administered as required by the TEC, §28.0211, within a ten-day period following the receipt of the test materials from the school district or charter school.
- (e) The scoring contractor will provide school districts with the results of the machine-scorable assessments administered as required by the TEC, §39.023, within a 21-day period following the receipt of the test materials from the school district or charter school. Upon receipt of the assessment results from the agency's test contractor, a school district or charter school shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year.

Statutory Authority: The provisions of this §101.3014 issued under the Texas Education Code, §§7.021, 28.0211, 39.023, 39.0231, 39.025, and 39.028.

Source: The provisions of this §101.3014 adopted to be effective March 14, 2013, 38 TexReg 1679; amended to be effective March 2, 2014, 39 TexReg 1150.

§101.3015. Test Development.

- (a) Texas educators shall assist Texas Education Agency staff in developing test objectives, assessment guidelines, and test items. Advisory committees composed of Texas educators shall reflect the diversity of the state by region, ethnicity, gender, and type and size of school district.
- (b) Each public school and charter school shall assist with field-testing and other activities necessary to implement the requirements of the Texas Education Code, Chapter 39, Subchapter B.

Statutory Authority: The provisions of this §101.3015 issued under the Texas Education Code, §§7.021, 28.0211, 39.023, 39.0231, 39.025, and 39.028.

Source: The provisions of this §101.3015 adopted to be effective March 14, 2013, 38 TexReg 1679.

§101.3016. National Comparative Data.

- (a) In accordance with the Texas Education Code (TEC), §39.028, the commissioner of education shall develop a schedule to obtain nationally comparative results for the grades and subject areas for which academic content area assessments are adopted under the TEC, §39.023.
- (b) The Texas Education Agency will use sampling and other techniques to minimize the disruption to schools and loss of instructional time required of school districts to obtain nationally comparative data.
- (c) The nationally comparative data will be collected by using nationally recognized instruments for obtaining valid and reliable normative data from a sample of Texas students.

Statutory Authority: The provisions of this §101.3016 issued under the Texas Education Code, §§7.021, 28.0211, 39.023, 39.0231, 39.025, and 39.028.

Source: The provisions of this §101.3016 adopted to be effective March 14, 2013, 38 TexReg 1679.

Division 2. Participation and Assessment Requirements for Graduation

§101.3021. Required Participation in Academic Content Area Assessments.

- (a) Beginning with students first enrolled in Grade 9 in the 2011-2012 school year, a student enrolled in a course for which an end-of-course (EOC) assessment exists as required by the Texas Education Code (TEC), §39.023(c), shall take the appropriate assessment.
- (b) A student is required to meet the EOC assessment graduation requirements of §101.3022 of this title (relating to Assessment Requirements for Graduation) to receive a Texas diploma if a student:

- (1) is participating in a distance-learning or correspondence course as outlined in §74.23 of this title (relating to Correspondence Courses and Distance Learning) for which there is an EOC assessment as listed in the TEC, §39.023(c); or
 - (2) is participating in a dual-credit course as specified in §74.25 of this title (relating to High School Credit for College Courses) for which there is an EOC assessment as listed in the TEC, §39.023(c).
- (c) An EOC assessment administered under the TEC, §39.023(c), cannot be used for purposes of credit by examination as specified in §74.24 of this title (relating to Credit by Examination).
 - (d) Beginning in the 2011-2012 school year, a student in Grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment specified in the TEC, §39.023(c). The EOC assessment result shall be applied toward the student's assessment graduation requirements, as specified in §101.3022 of this title.
 - (e) If a student earned high school credit for a course for which there is an EOC assessment as listed in the TEC, §39.023(c), prior to enrollment in a Texas public school district and the credit has been accepted by a Texas public school district, or a student completed a course for Texas high school credit in a course for which there is an EOC assessment prior to the 2011-2012 spring administration, the student is not required to take the corresponding EOC assessment as listed in the TEC, §39.023(c). This subsection applies only to:
 - (1) students who will graduate under the minimum, recommended, or distinguished high school programs as those programs existed before the adoption of House Bill 5, 83rd Texas Legislature, Regular Session, 2013; or
 - (2) courses for which credit was earned prior to September 1, 2014, by students who will graduate under the foundation high school program.
 - (f) A student may retake an EOC assessment under the TEC, §39.023(c), only if the student previously failed the EOC assessment. A student is not required to retake a course in order to be administered a retest of an EOC assessment.

Statutory Authority: The provisions of this §101.3021 issued under the Texas Education Code, §39.023 and §39.025, and House Bill 5, Sections 36 and 79, 83rd Texas Legislature, Regular Session, 2013.

Source: The provisions of this §101.3021 adopted to be effective May 29, 2012, 37 TexReg 3827; amended to be effective March 25, 2014, 39 TexReg 2077.

§101.3022. Assessment Requirements for Graduation.

- (a) Beginning with students first enrolled in Grade 9 in the 2011-2012 school year, a student must meet satisfactory performance on each end-of-course (EOC) assessment listed in the Texas Education Code (TEC), §39.023(c), except in cases as provided by subsection (b) of this section and §101.3021(e) of this title (relating to Required Participation in Academic Content Area Assessments), in order to be eligible to receive a Texas diploma. The standard in place when a student first takes an EOC assessment is the standard that will be maintained throughout the student's school career.
- (b) A student who was administered separate reading and writing EOC assessments under the TEC, §39.023(c), for the English I or English II course has met that course's assessment graduation requirement if the student has met the following criteria:
 - (1) achieved satisfactory performance on either the reading or writing EOC assessment for that course;
 - (2) met at least the minimum score on the other EOC assessment for that course; and
 - (3) achieved an overall scale score of 3750 or greater when the scale scores for reading and writing are combined for that course.

- (c) Exceptions to subsection (a) of this section related to English I shall apply to English language learners who meet the criteria specified in §101.1007 of this title (relating to Assessment Provisions for Graduation).
- (d) If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course.

Statutory Authority: The provisions of this §101.3022 issued under the Texas Education Code, §§39.023, 39.024, 39.0241, 39.0242, and 39.025, as those sections existed before revision by HB 5, 83rd Texas Legislature, Regular Session, 2013; §39.023 and §39.025, as amended by HB 5, 83rd Texas Legislature, Regular Session, 2013; §28.025(h), as added by HB 5, 83rd Texas Legislature, Regular Session, 2013; and HB 5, Sections 36 and 79, 83rd Texas Legislature, Regular Session, 2013.

Source: The provisions of this §101.3022 adopted to be effective May 29, 2012, 37 TexReg 3827; amended to be effective July 3, 2013, 38 TexReg 4183; amended to be effective March 25, 2014, 39 TexReg 2077.

§101.3023. Participation and Graduation Assessment Requirements for Students Receiving Special Education Services.

- (a) As stipulated by §89.1070 of this title (relating to Graduation Requirements), a student receiving special education services under the Texas Education Code (TEC), Chapter 29, Subchapter A, who successfully completes the requirements of his or her individualized education program (IEP), including performance on a state assessment required for graduation, shall receive a Texas high school diploma. A student's admission, review, and dismissal (ARD) committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.
- (b) Beginning with the 2011-2012 school year, all Grades 9-12 students with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student's IEP will be assessed using alternate versions of end-of-course (EOC) assessments as listed in §101.3011(b)(2) of this title (relating to Implementation and Administration of Academic Content Area Assessment Instruments).
- (c) For the 2011-2012 through 2013-2014 school years, a student who is receiving special education services under the TEC, Chapter 29, Subchapter A, and who is first enrolled in Grade 9 or below in the 2011-2012 school year shall be administered an alternative version of an EOC assessment instrument upon completion of the corresponding course as required by the student's IEP. Beginning with the 2014-2015 school year, a student who is receiving special education services under the TEC, Chapter 29, Subchapter A, whose IEP does not specify the administration of an alternate assessment and who is first enrolled in Grade 9 or below in the 2011-2012 school year shall be administered an EOC assessment instrument upon completion of the corresponding course as required by the student's IEP.

Statutory Authority: The provisions of this §101.3023 issued under the Texas Education Code, §39.023 and §39.025, and House Bill 5, Sections 36 and 79, 83rd Texas Legislature, Regular Session, 2013.

Source: The provisions of this §101.3023 adopted to be effective May 29, 2012, 37 TexReg 3827; amended to be effective March 25, 2014, 39 TexReg 2077.

§101.3024. Assessment Requirements for Students First Enrolled in Grade 9 Prior to 2011-2012 School Year or First Enrolled in Grade 10 or Above in 2011-2012 School Year.

- (a) Students who were first enrolled in Grade 9 prior to the 2011-2012 school year or enrolled in Grade 10 or above in the 2011-2012 school year must fulfill testing requirements for graduation with the assessments required by the Texas Education Code (TEC), §39.023(c), as that section existed before amendment by Senate Bill (SB) 1031, 80th Texas Legislature, 2007. For purposes of this section, coursework necessary to graduate means all the coursework required under the student's graduation plan.
- (b) For a student who is receiving special education services under the TEC, Chapter 29, Subchapter A, who is enrolled above Grade 9 in the 2011-2012 school year and for whom an IEP specifies that the student shall take a modified version of an assessment, the modified assessments as required by the TEC, §39.023, as that section existed before amendment by SB 1031, 80th Texas Legislature, 2007, will continue to be the student's assessment requirement.

- (c) With the exception of students who meet the criteria described in subsection (d) of this section, students who were enrolled as follows shall fulfill testing requirements for graduation with the assessments as required by the TEC, §39.023(c), as that section existed before amendment by SB 1031, 80th Texas Legislature, 2007, with the applicable performance standards established by the commissioner of education and published on the Texas Education Agency (TEA) website:
- (1) in Grade 9 or higher on January 1, 2001, regardless of when they are scheduled to graduate; or
 - (2) in Grade 8 or lower on January 1, 2001, if they were on an accelerated track and fulfilled all coursework necessary to graduate by September 1, 2004.
- (d) A student who entered Grade 11 in the 1989-1990 school year or an earlier school year shall fulfill testing requirements for graduation with assessments as required by the TEC, §39.023(c), as that section existed before amendment by SB 1031, 80th Texas Legislature, 2007, under an applicable performance standard established by the commissioner of education that corresponds to the performance standard in effect for the exit level Texas Educational Assessment of Minimum Skills (TEAMS) when the student was first eligible to take the exit level TEAMS. Performance standards that apply to TEAMS students will be published on the TEA website.
- (e) A student fulfilling testing requirements under subsection (c) of this section will be required to take only those sections of the exit level Texas Assessment of Knowledge and Skills (TAKS) that correspond to the subject areas formerly assessed by the exit level Texas Assessment of Academic Skills (TAAS) (reading, writing, and mathematics) for which the student has not yet met the passing standard.
- (1) If a student has not yet met the passing standard on TAAS reading, the student will be administered only the reading multiple-choice items from the TAKS English language arts (ELA) test.
 - (2) If a student has not yet met the passing standard on TAAS writing, the student will be administered only the writing prompt and the revising and editing multiple-choice items from the TAKS ELA test.
- (f) A student fulfilling testing requirements under subsection (d) of this section will be required to take only those sections of the exit level TAKS that correspond to the subject areas formerly assessed by the exit level TEAMS (reading and mathematics) for which the student has not yet met the passing standard. If a student has not yet met the passing standard on TAAS reading, the student will be administered only the reading multiple-choice items from the TAKS ELA test.
- (g) Notwithstanding any of the requirements in subsections (a)-(f) of this section, students who pass all of the required exit level TAKS tests have fulfilled their testing requirements for graduation.
- (h) Beginning with the 2011-2012 school year, students first enrolled in Grade 9 or lower must fulfill testing requirements for graduation with the end-of-course assessment instruments, as specified in the TEC, §39.023(c), as amended by SB 1031, 80th Texas Legislature, 2007.

Statutory Authority: The provisions of this §101.3024 issued under the Texas Education Code, §39.023 and 39.025.

Source: The provisions of this §101.3024 adopted to be effective May 29, 2012, 37 TexReg 3827.

Division 3. Security of Assessments, Required Test Administration Procedures and Training Activities

§101.3031. Required Test Administration Procedures and Training Activities to Ensure Validity, Reliability, and Security of Assessments.

- (a) Purpose. To ensure that each assessment instrument is reliable and valid and meets applicable federal requirements for measurement of student progress, the commissioner of education shall establish test administration procedures and required training activities that support the standardization and security of the test administration process.
- (b) Test administration procedures. These test administration procedures shall be delineated in the test administration materials provided to school districts and charter schools annually. Districts and charter

schools must comply with all of the applicable requirements specified in the test administration materials. Test administration materials shall include, but are not limited to, the following:

- (1) general testing program information;
 - (2) requirements for ensuring test security and confidentiality described in the *2014 Test Security Supplement* provided in this paragraph;
Figure: 19 TAC §101.3031(b)(2)
 - (3) procedures for test administration;
 - (4) responsibilities of personnel involved in test administration; and
 - (5) procedures for materials control.
- (c) **Training activities.** As part of the test administration procedures, the commissioner shall require training activities to ensure that testing personnel have the necessary skills and knowledge required to administer assessment instruments in a valid, standardized, and secure manner. The commissioner may require evidence of successful completion of training activities. Test coordinators and administrators must receive all applicable training as required in the test administration materials.
- (d) **Records retention.** As part of test administration procedures, the commissioner shall require school districts and charter schools to maintain records related to the security of assessment instruments for a minimum of five years.
- (e) **Applicability.** The test administration procedures and required training activities established in the annual test security supplements for prior years remain in effect for all purposes with respect to the prior year to which it applies.

Statutory Authority: The provisions of this §101.3031 issued under the Texas Education Code, §39.0301 and §39.0304.

Source: The provisions of this §101.3031 adopted to be effective March 26, 2012, 37 TexReg 2083; amended to be effective March 27, 2013, 38 TexReg 1974; amended to be effective March 30, 2014, 39 TexReg 2288.

Division 4. Performance Standards

§101.3041. Performance Standards.

- (a) The commissioner of education shall determine the level of performance considered to be satisfactory on the assessment instruments. The figures in this section identify the performance standards established by the commissioner for state-developed assessments, as required by the Texas Education Code, Chapter 39, Subchapter B, for all grades, assessments, and subjects. The figures in this subsection identify the performance standards established by the commissioner for the Grades 3-8 general, modified, and alternate State of Texas Assessments of Academic Readiness (STAAR®) assessments.
- (1) The figure in this paragraph identifies the Grades 3-8 STAAR® general education assessment performance standards.
Figure: 19 TAC §101.3041(a)(1)
 - (2) The figure in this paragraph identifies the Grades 3-8 STAAR® modified assessment performance standards.
Figure: 19 TAC §101.3041(a)(2)
 - (3) The figure in this paragraph identifies the Grades 3-8 STAAR® alternate assessment performance standards.
Figure: 19 TAC §101.3041(a)(3)
- (b) For students first enrolled in Grade 9 or below in the 2011-2012 school year, the figures in this subsection identify the performance standards established by the commissioner for the STAAR® end-of-course (EOC)

general, modified, and alternate assessments. The standard in place when a student first takes an EOC assessment in a particular content area is the standard that will be maintained in that content area throughout the student's high school career.

- (1) The figure in this paragraph identifies the EOC general education assessment performance standards.

Figure: 19 TAC §101.3041(b)(1)

- (2) The figure in this paragraph identifies the EOC modified assessment performance standards.

Figure: 19 TAC §101.3041(b)(2)

- (3) The figure in this paragraph identifies the EOC alternate assessment performance standards.

Figure: 19 TAC §101.3041(b)(3)

- (c) For students who were first enrolled in Grade 9 prior to the 2011-2012 school year or enrolled in Grade 10 or above in the 2011-2012 school year, the figure in this subsection identifies the performance standards established by the commissioner for the Texas Assessment of Knowledge and Skills for Grade 10 and exit level. The exit-level standard in place when a student enters Grade 10 is the standard that will be maintained throughout the student's high school career.

Figure: 19 TAC §101.3041(c)

Statutory Authority: The provisions of this §101.3041 issued under the Texas Education Code, §§39.024, 39.0241, 39.0242, and 39.025, as those sections existed before revision by HB 5 and SB 906, 83rd Texas Legislature, Regular Session, 2013; and §28.025(h), as added by HB 5, 83rd Texas Legislature, Regular Session, 2013.

Source: The provisions of this §101.3041 adopted to be effective August 21, 2012, 37 TexReg 6306; amended to be effective July 3, 2013, 38 TexReg 4183.