

The Texas Education Agency (TEA) proposes an amendment to §101.3024, concerning 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. The proposed amendment would modify the rule to reflect changes in statute made by Senate Bill (SB) 213, 86th Texas Legislature, 2019, and update an expiration date.

**BACKGROUND INFORMATION AND JUSTIFICATION:** Section 101.3024 allows former students, who were required to pass all or certain parts of the exit-level tests for graduation, to earn a high school diploma through alternative options. Specifically, subsection (g) allows a former student to receive a high school diploma if the former student has qualified to graduate in accordance with Texas Education Code (TEC), §28.02541. The rule currently states that this provision expires on September 1, 2019.

SB 213, 86th Texas Legislature, 2019, amended the TEC, §28.02541, to extend the expiration date of the provision that allows certain former students who have completed the curriculum requirements for graduation but have not performed satisfactorily on assessment instruments to qualify for a high school diploma to September 1, 2023. To implement SB 213, the proposed amendment would modify the rule by extending the expiration date to September 1, 2023.

**FISCAL IMPACT:** Lily Laux, deputy commissioner for school programs, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

**LOCAL EMPLOYMENT IMPACT:** The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

**SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT:** The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

**COST INCREASE TO REGULATED PERSONS:** The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

**TAKINGS IMPACT ASSESSMENT:** The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

**GOVERNMENT GROWTH IMPACT:** TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation due to the extension of the expiration date and increase the number of individuals subject to the rule's applicability by allowing more students to obtain high school diplomas.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; and would not positively or adversely affect the state's economy.

**PUBLIC BENEFIT AND COST TO PERSONS:** Ms. Laux has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring that rule language is based on current law and provides additional options for former students to obtain a high school diploma. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have no data and reporting impact.

**PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS:** The TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins July 26, 2019, and ends August 26, 2019. A request for a public hearing on the proposal submitted under the Administrative Procedure Act must be received by the commissioner of education not more than 14 calendar days after notice of the proposal has been published in the *Texas Register* on July 26, 2019. A form for submitting public comments is available on the TEA website at

[https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/Commissioner\\_Rules\\_\(TAC\)/Proposed\\_Commissioner\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/). Comments on the proposal may also be submitted to Cristina De La Fuente-Valadez, Rulemaking, Texas Education Agency, 1701 North Congress Avenue, Austin, Texas 78701.

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §28.02541, as amended by SB 213, 86th Texas Legislature, 2019, which extends the expiration date for districts to determine whether certain former students, who have met curriculum requirements for graduation but have not performed satisfactorily on an assessment instrument, may qualify to graduate and receive a high school diploma. The expiration date changed from September 1, 2019, to September 1, 2023. Subsection (f) requires the commissioner to adopt rules to implement the section; and TEC, §39.025, establishes the secondary-level performance required to receive a Texas high school diploma, establishes alternate assessment options for students who entered Grade 9 prior to the 2011-2012 school year or Grade 10 or above in the 2011-2012 school year, and requires the commissioner to establish satisfactory performance levels on the alternate assessments.

CROSS REFERENCE TO STATUTE. Texas Education Code, §28.02541, as amended by SB 213, 86th Texas Legislature, 2019, and §39.025.

<rule>

**§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)-(f) (No change.)

(g) Effective beginning with the 2017-2018 school year, a student who has taken but failed to meet assessment graduation requirements under this section may receive a Texas high school diploma if the student has qualified to graduate in accordance with the TEC, §28.02541.

(1) A student may not graduate under TEC, §28.02541 if the student did not take each assessment instrument or the part of the assessment instrument for which the student has not performed satisfactorily at least three times.

(2) This subsection expires September 1, 2023 [~~2019~~] .

(h)-(i) (No change.)