

## **Statutory Citations Relating to Assessment**

### **Texas Education Code, §28.0211, Satisfactory Performance one Assessment Instruments Required; Accelerated Instruction (excerpt):**

- (a) Except as provided by Subsection (b) or (e), a student may not be promoted to:
  - (1) the sixth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the fifth grade mathematics and reading assessment instruments under Section 39.023; or
  - (2) the ninth grade program to which the student would otherwise be assigned if the student does not perform satisfactorily on the eighth grade mathematics and reading assessment instruments under Section 39.023.
- (a-1) Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) in the third, fourth, fifth, sixth, seventh, or eighth grade, the school district in which the student attends school shall provide to the student accelerated instruction in the applicable subject area. Accelerated instruction may require participation of the student before or after normal school hours and may include participation at times of the year outside normal school operations.
- (a-2) A student who fails to perform satisfactorily on an assessment instrument specified under Subsection (a) and who is promoted to the next grade level must complete accelerated instruction required under Subsection (a-1) before placement in the next grade level. A student who fails to complete required accelerated instruction may not be promoted.

### **Texas Education Code, §39.023, Adoption and Administration of Instruments (excerpt):**

- (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. Except as provided by Subsection (a-2), all students, other than students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:
  - (1) mathematics, annually in grades three through seven without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes algebra;
  - (2) reading, annually in grades three through eight;
  - (3) writing, including spelling and grammar, in grades four and seven;
  - (4) social studies, in grade eight;
  - (5) science, in grades five and eight; and
  - (6) any other subject and grade required by federal law.

- (a-11) Before an assessment instrument adopted or developed under Subsection (a) may be administered under that subsection, the assessment instrument must, on the basis of empirical evidence, be determined to be valid and reliable by an entity that is independent of the agency and of any other entity that developed the assessment instrument.
- (a-12) An assessment instrument adopted or developed under Subsection (a) must be designed so that:
- (1) if administered to students in grades three through five, 85 percent of students will be able to complete the assessment instrument within 120 minutes; and
  - (2) if administered to students in grades six through eight, 85 percent of students will be able to complete the assessment instrument within 180 minutes.
- (a-13) The amount of time allowed for administration of an assessment instrument adopted or developed under Subsection (a) may not exceed eight hours, and the administration may occur on only one day.
- (b) The agency shall develop or adopt appropriate criterion-referenced alternative assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, for whom an assessment instrument adopted under Subsection (a), even with allowable accommodations, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee, including assessment instruments approved by the commissioner that measure growth. The assessment instruments developed or adopted under this subsection, including the assessment instruments approved by the commissioner, must, to the extent allowed under federal law, provide a district with options for the assessment of students under this subsection. The agency may not adopt a performance standard that indicates that a student's performance on the alternate assessment does not meet standards if the lowest level of the assessment accurately represents the student's developmental level as determined by the student's admission, review, and dismissal committee.
- (b-1) The agency, in conjunction with appropriate interested persons, shall redevelop assessment instruments adopted or developed under Subsection (b) for administration to significantly cognitively disabled students in a manner consistent with federal law. An assessment instrument under this subsection may not require a teacher to prepare tasks or materials for a student who will be administered such an assessment instrument. Assessment instruments adopted or developed under this subsection shall be administered not later than the 2014-2015 school year.
- (c) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, biology, English I, English II, and United States history. The Algebra I end-of-course assessment instrument must be administered with the aid of technology. The English I and English II end-of-course assessment instruments must each assess essential knowledge and skills in both reading and writing in the same assessment instrument and must provide a single score. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the

student an assessment instrument required under this subsection. The State Board of Education shall administer the assessment instruments. The State Board of Education shall adopt a schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).

- (c-1) To the greatest extent practicable, the agency shall develop any assessment instrument required under this section in a manner that allows for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).
  
- (c-3) In adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall require:
  - (1) assessment instruments administered under Subsections (a), (a-4), (a-5), and (a-6) to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year; and
  - (2) the spring administration of end-of-course assessment instruments under Subsection (c) to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instruments in English I and English II must be permitted to occur at an earlier date.
  
- (c-4) To the extent practicable and subject to Section 39.024, the agency shall ensure that each end-of-course assessment instrument adopted under Subsection (c) is:
  - (1) developed in a manner that measures a student's performance under the college readiness standards established under Section 28.008; and
  - (2) validated by national postsecondary education experts for college readiness content and performance standards.
  
- (c-5) A student's performance on an end-of-course assessment instrument required under Subsection (c) must be included in the student's academic achievement record.
  
- (c-6) In adopting an end-of-course assessment instrument under this section, the agency shall consider the use of an existing assessment instrument that is currently available. The agency may use an existing assessment instrument that is currently available only if the assessment instrument:
  - (1) is aligned with the essential knowledge and skills of the subject being assessed; and
  - (2) allows for the measurement of annual improvement in student achievement as provided by Subsection (c-1).

- (d) The commissioner may participate in multistate efforts to develop voluntary standardized end-of-course assessment instruments. The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts. The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an end-of-course assessment instrument.
- (f) The assessment instruments shall be designed to include assessment of a student's problem-solving ability and complex-thinking skills using a method of assessing those abilities and skills that is demonstrated to be highly reliable.

**Texas Education Code, §39.0233, Special-Purpose Questions Included in End-of-Course Assessment Instruments:**

- (a) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of Section 51.3062. The questions adopted under this subsection must be developed in a manner consistent with any college readiness standards adopted under Sections 39.233 and 51.3062.
- (b) In addition to the questions adopted under Subsection (a), the agency shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A school district shall notify a student who performs at a high level on the questions adopted under this subsection and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A school district may not require a student to perform at a particular level on the questions adopted under this subsection in order to be eligible to enroll in an advanced high school course.
- (c) Repealed by Acts 2015, 84th Leg., R.S., Ch. 934 , Sec. 5(2), eff. June 18, 2015.
- (d) The questions adopted under this section may not be administered in a separate section of the end-of-course assessment instrument.

**Texas Education Code, §39.0234, Administration of Assessment Instruments by Computer:**

- (a) The agency shall ensure that assessment instruments required under Section 39.023 are capable of being administered by computer. The commissioner may not require a school district or open-enrollment charter school to administer an assessment instrument by computer.
- (b) Expired.

**Texas Education Code, §39.0238, Adoption and Administration of Postsecondary Readiness Assessment Instruments:**

- (a) In addition to other assessment instruments adopted and developed under this subchapter, the agency shall adopt or develop appropriate postsecondary readiness

assessment instruments for Algebra II and English III that a school district may administer at the district's option.

- (b) To the extent practicable, the agency shall ensure that each postsecondary readiness assessment instrument:
  - (1) assesses essential knowledge and skills and growth;
  - (2) is developed in a manner that measures a student's performance under the college readiness standards established under Section 28.008; and
  - (3) is validated by national postsecondary education experts for college readiness content and performance standards.
- (c) In adopting a schedule for the administration of postsecondary readiness assessment instruments under this section, the State Board of Education shall require the annual administration of the postsecondary readiness assessment instruments to occur not earlier than the second full week in May.
- (d) The agency shall adopt a policy requiring each school district that elects to administer postsecondary readiness assessment instruments under Subsection (a) to annually:
  - (1) administer the applicable postsecondary readiness assessment instrument to each student enrolled in a course for which a postsecondary readiness assessment instrument is adopted or developed under Subsection (a), including applied Algebra II; and
  - (2) report the results of the postsecondary readiness assessment instruments to the agency.
- (e) The agency shall annually deliver a report to the governor, the lieutenant governor, the speaker of the house of representatives, and the presiding officers of the standing committees of the legislature with jurisdiction over public education. The report must include a summary of student performance on the preceding year's postsecondary readiness assessment instruments.
- (f) The results of a postsecondary readiness assessment instrument administered under this section may not be used by:
  - (1) the agency for accountability purposes for a school campus or school district;
  - (2) a school district:
    - (A) for the purpose of teacher evaluations; or
    - (B) in determining a student's final course grade or determining a student's class rank for the purpose of high school graduation; or

- (3) an institution of higher education:
  - (A) for admission purposes; or
  - (B) to determine eligibility for a TEXAS grant.
- (g) A school district may not administer an additional benchmark assessment instrument solely for the purpose of preparing for a postsecondary readiness assessment instrument administered under this section. In this subsection, "benchmark assessment instrument" means a district-required assessment instrument designed to prepare students for a postsecondary readiness assessment instrument administered under this section.
- (h) The agency shall acknowledge a school district that elects to administer the postsecondary readiness assessment instruments as provided by Subsection (a).

**Texas Education Code, §39.024, Measure of College Readiness:**

- (a) In this section, "college readiness" means the level of preparation a student must attain in English language arts and mathematics courses to enroll and succeed, without remediation, in an entry-level general education course for credit in that same content area for a baccalaureate degree or associate degree program at:
  - (1) a general academic teaching institution, as defined by Section 61.003, other than a research institution, as categorized under the Texas Higher Education Coordinating Board's accountability system; or
  - (2) a postsecondary educational institution that primarily offers associate degrees or certificates or credentials other than baccalaureate or advanced degrees.
- (b) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(a)(2), eff. September 1, 2013.
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- (g) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(a)(2), eff. September 1, 2013.
- (h) Repealed by Acts 2013, 83rd Leg., R.S., Ch. 211, Sec. 78(a)(2), eff. September 1, 2013.
- (i) The agency shall gather data and conduct research to substantiate any correlation between a certain level of performance by students on end-of-course assessment instruments and success in:
  - (1) military service; or

- (2) a workforce training, certification, or other credential program at a postsecondary educational institution that primarily offers associate degrees or certificates or credentials other than baccalaureate or advanced degrees.

**Texas Education Code, §39.0241, Performance Standards (excerpt):**

- (a) The commissioner shall determine the level of performance considered to be satisfactory on the assessment instruments.
- (a-1) The commissioner of education, in collaboration with the commissioner of higher education, shall determine the level of performance necessary to indicate college readiness, as defined by Section 39.024(a).

**Texas Education Code, §39.025, Secondary-Level Performance Required (excerpt):**

- (a) The commissioner shall adopt rules requiring a student in the foundation high school program under Section 28.025 to be administered an end-of-course assessment instrument listed in Section 39.023(c) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. A student is required to achieve a scale score that indicates satisfactory performance, as determined by the commissioner under Section 39.0241(a), on each end-of-course assessment instrument administered to the student. For each scale score required under this subsection that is not based on a 100-point scale scoring system, the commissioner shall provide for conversion, in accordance with commissioner rule, of the scale score to an equivalent score based on a 100-point scale scoring system. A student may not receive a high school diploma until the student has performed satisfactorily on end-of-course assessment instruments in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher education.

**Texas Education Code, §39.027, Exemption (excerpt):**

- (d) The commissioner shall develop an assessment system that shall be used for evaluating the academic progress, including reading proficiency in English, of all students of limited English proficiency, as defined by Section 29.052. A student who is exempt from the administration of an assessment instrument under Subsection (a)(1) or (2) who achieves reading proficiency in English as determined by the assessment system developed under this subsection shall be administered the assessment instruments described by Sections 39.023(a) and (c). The performance under the assessment system developed under this subsection of students to whom Subsection (a)(1) or (2) applies shall be included in the indicator systems under Section 39.301, as applicable, the performance report under Section 39.306, and the comprehensive biennial report under Section 39.332. This information shall be provided in a manner that is disaggregated by the bilingual education or special language program, if any, in which the student is enrolled.

**Texas Education Code, §39.034, Measure of Annual Improvement in Student Achievement:**

- (a) The commissioner shall determine a method by which the agency may measure annual improvement in student achievement from one school year to the next on an assessment instrument required under this subchapter.

- (b) For students of limited English proficiency, as defined by Section 29.052, the agency shall use a student's performance data on reading proficiency assessment instruments in English and one other language to calculate the student's progress toward dual language proficiency.
- (c) The agency shall use a student's previous years' performance data on an assessment instrument required under this subchapter to determine the student's expected annual improvement. The agency shall report that expected level of annual improvement and the actual level of annual improvement achieved to the district. The report must state whether the student fell below, met, or exceeded the agency's expectation for improvement.
- (d) The agency shall determine the necessary annual improvement required each year for a student to be prepared to perform satisfactorily on, as applicable:
  - (1) the grade five assessment instruments;
  - (2) the grade eight assessment instruments; and
  - (3) the end-of-course assessment instruments required under this subchapter for graduation.
- (d-1) The agency shall report the necessary annual improvement required under Subsection (d) to the district. Each year, the report must state whether the student fell below, met, or exceeded the necessary target for improvement.

**Texas Education Code, §39.036, Vertical Scale for Certain Assessment Instruments:**

- (a) The agency shall develop a vertical scale for assessing student performance on assessment instruments administered under Sections 39.023(a)(1) and (2) in a manner that allows the agency to compare the performance of a student on the assessment instruments from one grade level to the next.
- (b) The commissioner shall adopt rules necessary to implement this section.