

The Texas Education Agency (TEA) proposes amendments to §74.1025 and §74.1027, concerning high school graduation. The proposed amendments would eliminate expiration provisions in alignment with statute.

BACKGROUND INFORMATION AND JUSTIFICATION: Texas Education Code (TEC), §28.0258, requires each school district and open-enrollment charter school to establish an individual graduation committee for each 11th or 12th grade student who fails to perform satisfactorily on not more than two end-of-course (EOC) assessments. Statute requires the commissioner of education to adopt rules to establish alternative individual graduation committee members and a timeline for decisions by individual graduation committees. The provisions of TEC, §28.0258, were initially set to expire September 1, 2017. Senate Bill (SB) 463, 85th Texas Legislature, Regular Session, 2017, extended the expiration date to September 1, 2019, and added TEC, §28.02541.

TEC, §28.02541, allows certain former students--those who entered high school prior to the 2011-2012 school year and completed all curriculum requirements but did not perform satisfactorily on the required assessments--to qualify for a high school diploma. Before 2011, these students were required to perform satisfactorily on exit-level Texas Assessment of Knowledge and Skills (TAKS) assessments in English language arts, mathematics, science, and social studies. Earlier cohorts were subject to prior exit-level assessments, including the Texas Assessment of Academic Skills (TAAS) and the Texas Educational Assessment of Minimum Skills (TEAMS). Statute requires the commissioner to adopt rules to administer TEC, §28.02541. The provisions of TEC, §28.02541, were initially set to expire September 1, 2019.

SB 213, 86th Texas Legislature, Regular Session, 2019, subsequently extended the expiration dates for both TEC, §28.0258 and §28.02541, to September 1, 2023. In 2021, House Bill (HB) 1603, 87th Texas Legislature, Regular Session, removed the expiration dates from both statutes, making the provisions of TEC, §28.0258 and §28.02541, permanent.

Section 74.1025 establishes the procedures for determining whether a student may qualify to graduate and receive a high school diploma based on an individual graduation committee (IGC) decision under TEC, §28.0258.

Section 74.1027 establishes the procedures for determining whether a student may qualify to graduate and receive a high school diploma under TEC, §28.02541.

The proposed amendments would remove the expiration dates from §74.1025 and §74.1027 to align with HB 1603, 87th Texas Legislature, Regular Session, 2021.

In addition, obsolete references to the 2014-2015 and 2017-2018 school years would be removed.

FISCAL IMPACT: Monica Martinez, associate commissioner for standards and 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 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 expand, limit, or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Martinez 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 providing additional flexibility for students and former students who are seeking to graduate but have not met all assessment requirements. 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: 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: TEA requests public comments on the proposal, including, per Texas Government Code, §2001.024(a)(8), information related to the cost, benefit, or effect of the proposed rule and any applicable data, research, or analysis, from any person required to comply with the proposed rule or any other interested person. The public comment period on the proposal begins August 21, 2026, and ends September 21, 2026. 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 August 21, 2026. 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/).

STATUTORY AUTHORITY. The amendments are proposed under TEC, §28.02541, which requires the commissioner of education to establish a procedure to determine whether certain students who entered Grade 9 before the 2011-2012 school year may qualify to graduate and receive a high school diploma; TEC, §28.0258, which requires each school district and open-enrollment charter school to establish an IGC for certain students who failed to perform satisfactorily on not more than two EOC assessments. This section requires the commissioner to adopt rules as necessary to implement the IGC requirement; and TEC, §28.0259, which requires the commissioner of education to adopt rules as necessary to implement the requirement for school districts to report through the Public Education Information Management System (PEIMS) the number of district students each school year for which an individual graduation committee.

CROSS REFERENCE TO STATUTE. The amendments implement TEC, §§28.02541, 28.0258, and 28.0259.

<rule>

§74.1025. Individual Graduation Committee Review.

- (a) ~~In [Effective beginning with the 2014-2015 school year, in]~~ accordance with ~~[the]~~ Texas Education Code (TEC), §28.0258 ~~;~~ ^[i] §101.3022 of this title (relating to Assessment Requirements for Graduation) ~~;~~ ^[i] and the course requirements in Chapter 74, Subchapter B, of this title (relating to Graduation Requirements), a school district or an open-enrollment charter school may award a high school diploma to a student who has taken but failed to achieve the end-of-course (EOC) assessment graduation requirements for no more than two courses if the student has qualified to graduate by means of an individual graduation committee.
- (b) A school district or an open-enrollment charter school shall establish an individual graduation committee at the end of or after a student's 11th grade year to determine whether the student may qualify to graduate. A student may not qualify to graduate as a result of an individual graduation committee decision before the student's 12th grade year.

- (c) A school district or an open-enrollment charter school may not establish an initial individual graduation committee for eligible students after June 10 or before the start of the next school year. Once the individual graduation committee has been established, it is the original individual graduation committee for that student.
- (d) In order for a student to be included as a graduate in the school district's or charter school's graduation data in the school year in which the student meets the requirements provided by law to graduate under individual graduation committee provisions, an individual graduation committee must make a decision to award a diploma no later than August 31 immediately following that school year. A student who graduates as a result of an individual graduation committee decision after August 31 shall be reported in the subsequent year's graduation data.
- (e) If a student leaves a school district after an original individual graduation committee has been established and before that original individual graduation committee awards a high school diploma to the student, any other district that later enrolls the student shall request information from the student's original individual graduation committee of record and shall implement the original individual graduation committee recommendations to the extent possible.
- (f) The individual graduation committee shall consist of the following:
 - (1) the principal or principal's designee;
 - (2) for each EOC assessment instrument on which the student failed to perform satisfactorily, the teacher of the course;
 - (3) the department chair or lead teacher supervising the teacher described by paragraph (2) of this subsection; and
 - (4) as applicable:
 - (A) the student's parent or person standing in parental relation to the student;
 - (B) a designated advocate if the person described by subparagraph (A) of this paragraph is unable to serve; or
 - (C) the student, at the student's option, if the student is at least 18 years of age or is an emancipated minor.
- (g) In the event that the teacher identified in subsection (f)(2) of this section is unavailable, the principal shall designate as an alternate member of the committee a teacher certified in the subject of the EOC assessment on which the student failed to perform satisfactorily and who is most familiar with the student's performance in that subject area.
- (h) In the event that the individual identified in subsection (f)(3) of this section is unavailable, the principal shall designate as an alternate member of the committee an experienced teacher certified in the subject of the EOC assessment on which the student failed to perform satisfactorily and who is familiar with the content of and instructional practices for the applicable course.
- (i) In the event that the student's parent or person standing in parental relation to the student is unavailable to participate in the individual graduation committee, the principal shall designate an advocate with knowledge of the student to serve as an alternate member of the committee.
- (j) Each school district and open-enrollment charter school shall report through the Texas Student Data System Public Education Information Management System (TSDS PEIMS) the following:
 - (1) the number of students each school year for which an individual graduation committee is established; and
 - (2) the number of students each school year who are awarded a diploma based on the decision of an individual graduation committee.
- (k) A district shall maintain documentation to support the decision of the individual graduation committee to award or not award a student a high school diploma.

- (l) This section only applies to a student classified by the school district or open-enrollment charter school as an 11th or 12th grade student in the 2014-2015 school year or thereafter.

~~[(m)] Provisions of this section expire September 1, 2023. A student may graduate by means of an individual graduation committee if the student has qualified for an individual graduation committee under the TEC, §28.0258, and the individual graduation committee convened prior to September 1, 2023.]~~

- (m) ~~[(n)]~~ A student receiving special education services is not subject to the individual graduation committee requirements in ~~[the]~~ TEC, §28.0258, or the provisions of this section. As provided in §89.1070 of this title (relating to Graduation Requirements) and §101.3023 of this title (relating to Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's admission, review, and dismissal ~~[(ARD)]~~ committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

§74.1027. Diplomas for Certain Individuals Who Entered Grade 9 Before 2011-2012 School Year.

- (a) ~~In [Effective beginning with the 2017-2018 school year, in]~~ accordance with ~~[the]~~ Texas Education Code (TEC), §28.02541, a school district or an open-enrollment charter school may award a high school diploma to an individual who:
- (1) entered Grade 9 before the 2011-2012 school year;
 - (2) successfully completed the curriculum requirements for high school graduation applicable to the individual when the individual entered Grade 9;
 - (3) has not performed satisfactorily on an assessment instrument or a part of an assessment instrument required for high school graduation, including an alternate assessment instrument offered under TEC, §39.025(c-2);
 - (4) has been administered at least three times the required subject-areas test(s), including an alternate assessment as specified in paragraph (3) of this subsection, for which the individual has not performed satisfactorily on the exit-level assessment instrument applicable to the individual when the individual entered Grade 9; and
 - (5) meets the alternative requirements for graduation in accordance with subsection (c) of this section or the local alternative requirements approved by the board of trustees in accordance with subsection (d) of this section.
- (b) The school district or open-enrollment charter school in which the individual is enrolled or was last enrolled shall determine whether the individual may qualify to graduate and receive a high school diploma on the basis of the alternative requirements for graduation.
- (c) The alternative requirements for graduation shall permit an individual to qualify to graduate and receive a high school diploma if the individual:
- (1) has met the performance standard on an alternate assessment as specified in §101.4003 of this title (relating to Texas Assessment of Knowledge and Skills Exit-Level Alternate Assessments);
 - (2) has performed satisfactorily on the applicable subject-area test of a state-approved high school equivalency examination in accordance with §89.43(a)(4) of this title (relating to Eligibility for a Texas Certificate of High School Equivalency);
 - (3) provides evidence of attainment of a Texas Education Agency-approved industry-recognized postsecondary license or certification;
 - (4) provides evidence of current active duty service in the armed forces or a DD Form 214 indicating honorable or general discharge from the armed forces; or
 - (5) has successfully completed college-level coursework and earned college credit.
- (d) With approval by the school district board of trustees, a school district may develop recommendations for local alternative requirements if the requirements would allow an individual to demonstrate proficiency in the content related to an examination for which the individual has not performed satisfactorily.

- (e) A decision regarding whether the individual qualifies to graduate and receive a high school diploma is final and may not be appealed.
- (f) The school district or open-enrollment charter school shall maintain documentation to support the decision to award or not award an individual a high school diploma.

~~[(g) Provisions of this section expire September 1, 2023.]~~