

The Texas Education Agency (TEA) proposes an amendment to §101.3011, concerning implementation and administration of academic content area assessment instruments. The proposed amendment would remove the English II end-of-course requirement for alternative assessment instruments after the 2026-2027 school year and add a provision allowing for eligible virtual campuses and programs to administer state assessments remotely.

BACKGROUND INFORMATION AND JUSTIFICATION: Senate Bill (SB) 569, 89th Texas Legislature, Regular Session, 2025, repealed Texas Education Code (TEC), Chapter 30A, related to the Texas Virtual School Network; established Texas Education Code (TEC), Chapter 30B, creating a new policy framework for virtual and hybrid education; and provided a transition period for already existing courses, programs, and campuses.

Under TEC, Chapter 30B, school systems may offer virtual and hybrid instruction through a variety of models, including individual courses, programs, or full-time virtual and hybrid campuses. This breadth of options allows districts to align offerings with their instructional goals and operational capacity, whether by starting with targeted courses or implementing comprehensive models such as full-time virtual and hybrid programs and campuses.

The proposed amendment to §101.3011(c) would add the option for authorized virtual campuses and programs to administer state-required assessments remotely.

In addition, TEC, §39.023(c), as amended by House Bill (HB) 8, 89th Texas Legislature, 2nd Called Session, 2025, removed the English II end-of-course assessment from the list of required high school assessments. HB 8 established a new statewide assessment program to be implemented beginning with the 2027-2028 school year. Accordingly, the proposed amendment to §101.3011(b) would specify that the English II end-of-course assessment for students subject to assessment requirements remains in effect only through the 2026-2027 school year. Beginning in the 2027-2028 school year, the English II end-of-course assessment will be discontinued.

FISCAL IMPACT: Iris Tian, deputy commissioner of analytics, assessment and reporting, has determined that for the first five years the proposal is in effect, there are no fiscal implications for local government. While there will be additional costs to state government, these costs will be absorbed by the current budget for state assessments. The proposed amendment implements SB 569, 89th Texas Legislature, Regular Session, 2025, which created a new policy framework for virtual and hybrid education. The proposed amendment would add the option for virtual schools to administer state-required assessments remotely. The estimated cost to TEA to implement remote testing is \$105,200 per year during fiscal years 2027-2031.

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 by providing an additional option for eligible virtual campuses and programs to administer state-required assessments remotely. The proposed rulemaking would also limit an existing regulation by removing the English II assessment administration requirement after the 2026-2027 school year.

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 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. Tian 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 to provide authorized virtual campuses and programs with the option to test students remotely. Allowing remote testing for authorized virtual schools would improve access to state assessments and increase participation by removing geographic and logistical barriers that can be especially challenging for rural, medically fragile, and economically disadvantaged students and their families. Remote testing also better aligns with how virtual students receive instruction and supports a more efficient and consistent approach to administering assessments statewide. 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 October 16, 2026, and ends November 16, 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 October 16, 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 amendment is proposed under TEC, §39.023, as amended by HB 1416, 88th Texas Legislature, Regular Session, 2023; SB 1418, 89th Texas Legislature, Regular Session, 2025; and HB 8, 89th Texas Legislature, 2nd Called Session, 2025, which requires the agency to adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science; and TEC, §39.025, as amended by HB 1416, 88th Texas Legislature, Regular Session, 2023; SB 1418, 89th Texas Legislature, Regular Session, 2025; and HB 8, 89th Texas Legislature, 2nd Called Session, 2025, which requires the commissioner to adopt rules requiring a student in the foundation high school program to be administered an end-of-course assessment instrument.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §39.023 and §39.025, as amended by HB 1416, 88th Texas Legislature, Regular Session, 2023; SB 1418, 89th Texas Legislature, Regular Session, 2025; and HB 8, 89th Texas Legislature, 2nd Called Session, 2025.

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

- (a) The Texas Education Agency (TEA) shall administer each assessment instrument under Texas Education Code (TEC), §39.023(a), (b), (c), and (l), in accordance with the rules governing the assessment program set forth in this chapter [~~Chapter 101 of this title (relating to Assessment)~~] .
 - (1) For purposes of federal accountability as allowed by subsection (d) 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 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 TEC, §39.023(c), that aligns with the curriculum for that course or subject within the same content area.
- (2) For purposes of federal accountability as allowed by subsection (d) of this section, a Grade 3-8 student who is accelerated in mathematics, reading/language arts, or science and on schedule to complete the high school end-of-course assessments in that same content area prior to high school shall be assessed at least once in high school with the ACT® or the SAT®.
- (3) A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is on schedule to complete instruction in the entire curriculum for that subject during the semester the assessment is administered.
- (4) A student shall be administered the assessments under TEC, §39.023(a), (c), and (l), online as required by TEC, §39.0234, except for a student:
 - (A) who requires specific accommodations that cannot be provided online as specified in the test administration materials; or
 - (B) who is enrolled in a school district or open-enrollment charter school that opts to offer paper administrations of assessments to students whose parent, guardian, or teacher in the applicable subject area requests a paper administration of an assessment. Requests for such paper administrations must be submitted to the school district or open-enrollment charter school by the dates indicated in TEC, §39.02342(b). Requests for these paper administrations from a district or charter school may not exceed 3% of eligible students enrolled in the district or charter school who are administered each assessment.
- (b) [The] TEA shall administer alternative assessment instruments under TEC, §39.023(b), that correspond to:
 - (1) the assessment instruments required under TEC, §39.023(a); [and]
 - (2) the following assessment instruments required under TEC, §39.023(c): English I, [English II,] Algebra I, biology, and U.S. history; and []
 - (3) the English II end-of-course assessment required under TEC, §39.023(c), for eligible students through the 2026-2027 school year.
- (c) 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 TEC, Chapter 39, Subchapter B, shall follow procedures specified in the applicable test administration materials. The following entities may administer assessments required under TEC, Chapter 39, Subchapter B, remotely in accordance with procedures specified in the applicable test administration materials:
 - (1) a full-time virtual campus as defined by TEC, §30B.001(3);
 - (2) a full-time virtual program as defined by TEC, §30B.001(4); and
 - (3) a full-time virtual campus of a school district or open-enrollment charter school that in the 2026-2027 school year operates in accordance with TEC, Chapter 30A, as that law existed before the effective date of Senate Bill 569, §15(a), 89th Texas Legislature, Regular Session, 2025.
- (d) In accordance with TEC, §39.023(a)(5), [the] TEA shall administer to students assessments in any other subject and grade required by federal law.