



House Bill 2130

Study of Statewide Assessment Program in Relation to Students in Special Education Programs

Report to the Texas Legislature

January 30, 2019



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STUDY OVERVIEW

Texas Education Code (TEC) §39.02302 requires the Texas Education Agency (TEA) to conduct a study of the impact of the statewide assessment program on students served by special education. As part of the study, the agency should address whether administration of alternate assessment instruments complies with the Every Student Succeeds Act (ESSA); whether administering state-required assessment instruments, other than alternate assessment instruments, will impact specified areas; and whether exempting students served by special education from a state assessment instrument would impact the statewide assessment program. The agency is also required to identify recommendations to improve the impact of the assessment program on students in special education, including recommendations in specific areas.

EXECUTIVE SUMMARY

As stated above, TEC §39.02302 requires the agency to conduct a study of the impact of the statewide assessment program on students served by special education. Based on research of federal law, state law, and statewide testing data, TEA has determined that the state's alternate assessment, the State of Texas Assessments of Academic Readiness (STAAR®) Alternate 2, complies with ESSA. Additionally, the agency has determined that the general assessment, STAAR, which is aligned to the required grade-level curriculum, is an appropriate measure for students. This is due to the fact that the Individuals with Disabilities Education Act (IDEA) requires students with disabilities to have an individualized education program (IEP) that includes academic goals aligned with grade-level content standards for all children with disabilities who receive special education services.

As explained in this report, TEA is unable to address whether administering STAAR will impact specified areas. This would require the agency to complete a comparison study to investigate students who have been administered STAAR compared to students who have not been administered STAAR. The agency is required to test all students, including those receiving special education services. Allowing some students to not test for this study would violate both federal and state requirements.

Additionally, since all students are required to be tested according to federal law, it is not recommended that a statutory change be made to exempt students in special education programs from taking the statewide assessments. Any such exemption would have a significant impact on the assessment program and could potentially result in litigation if the state does not provide equal opportunities for students receiving special education. As a result, the U.S. Department of Education (USDE) could place a condition on the state's funding related to the assessment system and potentially other federal education funding.

In this report, TEA has identified specific recommendations to improve the impact of the statewide assessment program on students in a special education program. Recommendations for potential statutory changes are listed below.



- TEA recommends eliminating the Student Success Initiative (SSI) grade-advancement requirements in TEC §28.0211 for students in special education programs, as the admission, review, and dismissal (ARD) committee is already obligated by federal and state requirements to make promotion decisions.
- If SSI grade-advancement requirements for students in special education programs are maintained, TEA recommends revising TEC §28.0211 (i) and (i-1) to include the option of an IEP amendment instead of the required meeting so that ARD committees have greater flexibility when determining grade promotion.

ESSA COMPLIANCE

TEC §39.02302 requires TEA to determine whether the administration of alternate assessment instruments to students in a special education program under Subchapter A, Chapter 29, as provided by Section 39.023(b) complies with ESSA. TEA has determined that the administration of alternate assessment instruments to students in a special education program (i.e., STAAR Alternate 2), complies with ESSA as indicated below.

The state is required to submit its assessment system, including STAAR Alternate 2, for a federal peer review process. As indicated in [A State's Guide to the U.S. Department of Education's Assessment Peer Review Process](#), the purpose of USDE's peer review of state assessment systems is to support states in meeting statutory and regulatory requirements under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB) and ESSA, for implementing valid and reliable state assessment systems. The USDE's review of state assessment systems is an evidence-based, peer review process for which each state submits evidence to demonstrate that its assessment system meets a set of established criteria. The Assistant Secretary provides formal feedback as to whether the state has provided sufficient evidence to demonstrate that its assessment system meets all applicable ESEA statutory and regulatory requirements. STAAR Alternate 2 was submitted for peer review in April 2016. As indicated in a letter from USDE dated October 30, 2018, STAAR Alternate 2 substantially meets requirements of ESEA, as amended by NCLB and ESSA.

EFFECTS OF ADMINISTERING STAAR

TEC §39.02302 requires TEA, using data collected by the agency, including data collected during the 2015–2016 and 2017–2018 school years, to conduct a study of the impact of the statewide assessment program on students in a special education program. As part of the study, the agency should address whether administering state-required assessment instruments, other than alternate assessment instruments, to students in a special education program will affect the areas listed below.

ACCURATE AND APPROPRIATE ASSESSMENT OF ACADEMIC ACHIEVEMENT

ESSA requires that all students, including those with disabilities, be included in the statewide assessment program. IDEA states that students receiving special education services should have access to the same



instructional and assessment requirements as their non-disabled peers. Therefore, students receiving special education services must have access to the general education curriculum that is tested on STAAR. IDEA also requires an IEP to contain academic goals aligned with grade-level content standards for all students with disabilities who receive special education services. The purpose of these goals, as is the purpose of all special education services, is to assist the student in accessing and progressing in the general curriculum.

For students receiving special education services, determination of the appropriate assessment (general assessment versus alternate assessment) is made by that student's ARD committee based on a student's access to the grade-level content standards. For a student whose ARD committee determines that STAAR is the most appropriate assessment, test results help identify the progress he or she is making toward meeting IEP standards-based goals. That is because STAAR is an assessment designed to measure the extent to which students have learned and are able to apply the knowledge and skills defined in the state-mandated curriculum standards, the Texas Essential Knowledge and Skills. As such, STAAR provides an accurate and appropriate assessment of the academic achievement of the students in special education programs who are required to have IEP goals aligned with the grade-level content standards.

PROMOTION

As part of the study, TEA is required to address whether administering STAAR to students in special education programs will affect their promotion to the next grade level. Currently, the administration of STAAR cannot be directly correlated to promotion decisions for students receiving special education services. The ARD committee makes promotion decisions based on the student's mastery of the curriculum; STAAR is only one piece of that evidence. The decision to promote a student receiving special education services may also include mastery of specific IEP goals related to the required curriculum. Also, promotion decisions must take into account local school district or charter school promotion/retention policies.

Any study looking to directly link grade promotion and STAAR results for students receiving special education services would need to first remove the current grade-advancement requirement. The study would then require the agency to investigate the impact on promotion for students who have been administered STAAR as compared to those who have not been administered STAAR. The agency is not able to conduct this study since all students, including those receiving special education services, are required to be tested. As indicated above, ESSA and IDEA require that all students, including those with disabilities, be included in the statewide assessment program. Additionally, TEC §39.023 requires all students to be assessed. Allowing some students to not test for this study would violate both federal and state requirements.

GRADUATION

As part of the study, TEA is required to address whether administering STAAR to students in special education programs will affect graduation rates. Currently, the administration of STAAR cannot be directly correlated to graduation rates for students receiving special education services. Graduation requirements



for students receiving special education services can be found in Texas Administrative Code (TAC) §89.1070. In all paths toward graduation for students with disabilities, a student is required to participate in state assessments; however, the ARD committee can determine whether satisfactory performance on the assessment is required for graduation. ARD committees make graduation decisions for each individual student on a case-by-case basis. When a student served by a special education program does not meet the passing standard on a state assessment, the ARD committee, after careful consideration of various factors (e.g., disability, test behavior, past state assessment performance, postsecondary goals, other factors unique to the individual student), can determine that passing the state assessment is not required for graduation.

Additionally, the study would require the agency to investigate the impact on graduation rates for students who have been administered STAAR as compared to those who have not been administered STAAR. The agency is not able to conduct this study since all students, including those receiving special education services, are required to be tested. Allowing some students to not test for this study would violate both federal and state requirements.

HIGHER EDUCATION OPPORTUNITIES

As part of the study, TEA is required to address whether administering STAAR to students in special education programs will affect opportunities to pursue higher education options. Currently, the administration of STAAR cannot be directly correlated to higher education options for students receiving special education services. Federal (34 CFR, §300.320(b)) and state (TAC §89.1055) requirements indicate that ARD committees must consider and annually address a transition plan and services for students in high school that should include, when appropriate, postsecondary education and vocational education. IEP documentation is based on the student's individual needs, taking into account the student's strengths, preferences, and interests, and includes instruction, related services, community experiences, employment and other applicable goals. The documentation may include whether satisfactory performance on STAAR affects the student's transition plan; however, depending on the specific goals and intended outcomes of the transition plan, meeting the passing standard on STAAR may not be required. Regardless, for students who have not met passing standards, the transition plan can be updated to help the student reach his or her goals and pursue higher education options.

Also, the study would require the agency to investigate the impact on opportunities to pursue higher education options for students who have been administered STAAR as compared to those who have not been administered STAAR. The agency is not able to conduct this study since all students, including those receiving special education services, are required to be tested. Allowing some students to not test for this study would violate both federal and state requirements.

EMPLOYMENT OPPORTUNITIES

As part of the study, TEA is required to address whether administering STAAR to students in special education programs will affect opportunities for competitive integrated employment. The agency does not currently have data that links state-required assessment performance to competitive integrated



employment for students in the state. As indicated above, this information would be documented as part of the transition plan in each student's IEP since federal and state requirements indicate that ARD committees must consider and annually address a transition plan and services for students in high school that should include, when appropriate, competitive integrated employment.

Moreover, the study would require the agency to investigate the impact on opportunities for competitive integrated employment for students who have been administered STAAR as compared to those who have not been administered STAAR. The agency is not able to conduct this study since all students, including those receiving special education services, are required to be tested. Allowing some students to not test for this study would violate both federal and state requirements.

OTHER

As part of the study, TEA is required to determine whether administering STAAR to students in a special education program will affect other areas for the students. The administration of STAAR cannot be directly correlated to restrictions on the students, alternative placements for the students, or limitations on the advancement of the students. This is due to the fact that the ARD committee makes educational decisions for students with disabilities, including decisions related to state assessments, placement, promotion, and graduation as described in the federal and state laws listed in throughout this report.

In addition, the study would require the agency to investigate the impact on these other areas for students who have been administered STAAR as compared to those who have not been administered STAAR. The agency is not able to conduct this study since all students, including those receiving special education services, are required to be tested. Allowing some students to not test for this study would violate both federal and state requirements.

EXEMPTING STUDENTS

TEC §39.02302 requires TEA to determine whether making a statutory change that has the effect of exempting students in a special education program under Subchapter A, Chapter 29, from the administration of an assessment instrument under Section 39.023, unless the student's parent or guardian requests such administration, would impact the statewide assessment program and the extent of any such impact, including any legal impact. Any statutory change that has the effect of exempting students served by special education from the administration of a state-required assessment would be in violation of federal law and would have a significant impact on the assessment program.

Appendices A–C show the numbers of students receiving special education services who are tested each year and would be impacted by exemptions. If the state does not test these students, Texas' assessment system will not pass federal peer review. The numbers of students exempted would decrease federal participation and performance rates. Not meeting federal requirements may result in the USDE placing a condition on the state's Title I grant award related to the assessment system. In addition, USDE may take additional action if progress on matters pertaining to the requirements in IDEA related to the participation



of students with disabilities in Title I assessments. Insufficient progress to address such matters may lead to USDE placing a condition on the agency's IDEA Part B grant award. The loss of federal funding would have a considerable impact on the Texas education system.

Appendix A shows the numbers of students receiving special education services who were assessed with STAAR for each grade/subject and course during the 2015–2016, 2016–2017, and 2017–2018 school years. In 2015–2016, the average number of students with disabilities who were tested with STAAR, with or without accommodations, per grade/subject or course was 31,249. That number was 32,031 for 2016–2017 and 33,240 for 2017–2018.

Appendix B shows the numbers of students receiving special education services who were assessed with STAAR Alternate 2 for each grade/subject and course during the 2015–2016, 2016–2017, and 2017–2018 school years. All students who were eligible to take STAAR Alternate 2 received special education services. In 2015–2016, the average number of students who were tested with STAAR Alternate 2 per grade/subject or course was 4,735. That number was 5,160 for 2016–2017 and 5,569 for 2017–2018.

Appendix C shows the total numbers of students receiving special education services who were assessed with either STAAR or STAAR Alternate 2 for each grade/subject and course during the 2015–2016, 2016–2017, and 2017–2018 school years. This represents the numbers from Appendix A and B combined. In 2015–2016, the average number of students with disabilities who were tested per grade/subject or course was 36,061. That number was 37,202 for 2016–2017 and 40,231 for 2017–2018.

Additionally, exempting students who receive special education services from the statewide assessment program violates IDEA, which requires students receiving special education services to have access to the same instructional and assessment requirements as their non-disabled peers. Violating IDEA may result in litigation if the state does not provide equal opportunities for students receiving special education services to demonstrate their acquired knowledge and skills.

RECOMMENDATIONS

TEC §39.02302 requires TEA to identify specific recommendations to improve the impact of the statewide assessment program on students in a special education program that includes the areas listed below.

CONTRACTING WITH ASSESSMENT VENDORS

TEA is required to identify specific recommendations to improve the impact of the statewide assessment program on students in a special education program including any reforms or changes with respect to contracting with assessment instrument vendors.

Consideration is currently given to the ability of potential assessment vendors to produce statewide assessments for a variety of student needs. For example, in cooperation with the current assessment vendors, TEA has increased accessibility for STAAR by adding a variety of new online accommodations—screen reader support for refreshable braille displays, American Sign Language videos, spelling assistance



tool, calculator tool, and content and language supports. These online accommodations are available on STAAR, where applicable, for students receiving special education services who routinely receive similar accommodations during classroom instruction.

Consideration will be given to future vendors regarding their ability to bring innovative ideas and principles of universal design to the statewide assessment program with the intent of increasing accessibility to all student populations.

PROMOTION AND GRADUATION

TEA is required to identify specific recommendations to improve the impact of the statewide assessment program on students in a special education program including any reforms or changes with respect to improving student grade-level promotion rates and student graduation rates. Since the ARD committee is responsible for promotion and graduation decisions, there are no recommendations with respect to this requirement. However, the agency is developing several resources for parents, educators, and administrators to assist with decision making for state assessments. A few of the resources in development include ARD committee decision-making flowcharts for statewide assessments and parent resources regarding the implications of statewide assessments on promotion and graduation. The agency will gather feedback and additional resource topics from a district working group and accessibility working group convening in summer 2019.

ACCOMMODATIONS AND UNIVERSAL DESIGN

TEA is required to identify specific recommendations to improve the impact of the statewide assessment program on students in a special education program including any reforms or changes with respect to developing allowable accommodations and applying principles of universal design for students during the administration of assessment instruments.

[Accommodation policies](#) for students in special education programs are reviewed and revised, if necessary, prior to every school year by an accessibility working group. This group is comprised of educators in various roles, such as region and district special education coordinators, general and special education teachers, and principals. New online accommodations, such as the ones described above, are incorporated into the statewide assessment program as advancements in technology occur.

Additionally, annual item development training for vendor and agency staff includes universal design training. The vendor applies principles of universal design to test items and passages, including (but not limited to) the use of clear, concise, readable language, spacing considerations, limits on extraneous information, and the use of graphics when needed for visual support. TEA staff and Texas teachers review all items developed for the statewide assessment program to ensure items are as accessible as possible to all students, including students in special education programs.

TEA will continue to work with educators from school districts and charter schools, the accessibility working group, and assessment vendors to explore accommodations used in classroom instruction,



advancements in technology, and innovative ideas, so that accessibility to the statewide assessment program will continue to improve for all student populations.

STATE BOARD AND COMMISSIONER RULES

TEA is required to identify specific recommendations to improve the impact of the statewide assessment program on students in a special education program including any changes to rules adopted by the SBOE or the Commissioner of Education relating to the development, adoption, or administration of assessment instruments. TEA has no recommendations at this time, since the state is currently meeting all federal and state requirements for administering statewide assessments to students in grades three through high school, including students with disabilities receiving special education services.

STATUTE

TEA is required to identify specific recommendations to improve the impact of the statewide assessment program on students in a special education program including any statutory changes to TEC relating to the development, adoption, or administration of assessment instruments. TEA suggests the following revisions to statutory code.

- The role of the ARD committee in making decisions about students with disabilities who are subject to SSI grade-advancement requirements is described in TEC §28.0211(i) and (i-1). A student receiving special education services enrolled in grade 5 or 8 who does not perform satisfactorily on the mathematics and/or reading assessment instruments is subject to SSI grade-advancement requirements. TEA recommends eliminating SSI grade-advancement requirements for students in special education programs, as the ARD committee is already obligated by federal and state requirements to make promotion decisions based on a student's mastery of standards-based IEP goals that have been individualized to meet the needs of that student.
- According to TEC §28.0211 (i) and (i-1), an ARD committee meeting must be held before a student in grade 5 or 8 is administered STAAR mathematics and/or reading for the second time. The ARD committee must determine how the student will participate in an accelerated instruction program and whether the student will be promoted or retained based upon the ARD committee determination that the student has made sufficient progress in the measurable academic goals in the student's IEP. ARD committees previously had the option to determine accelerated instruction, retest opportunities, and promotion. However, this code no longer includes the option for ARD committees to agree to amend or modify the IEP without an ARD committee meeting as outlined in 34 CFR §300.324(a) (4) and (6). TEA recommends revising this statute to include the option of an IEP amendment so that ARD committees have greater flexibility when determining grade promotion of grade 5 and 8 students.



OTHER

TEA is required to identify specific recommendations to improve the impact of the statewide assessment program on students in a special education program including any additional reforms or changes based on the results of the study. TEA has no further recommendations at this time.

CONCLUSIONS

In response to TEC §39.02302, the agency has determined that the state's alternate assessment, STAAR Alternate 2, complies with ESSA. Additionally, TEA has determined that the general assessment, STAAR, is an appropriate measure for students in special education programs since federal law requires students with disabilities to have an IEP that includes academic goals aligned with grade-level content standards for all children with disabilities who receive special education services.

The agency is unable to complete the study outlined in TEC §39.02302 as this would violate both federal and state requirements to assess all students, including students in special education programs, to be tested annually in specific grades/subjects and courses. As a result, it is not recommended that a statutory change be made to exempt students in special education programs from taking statewide assessments. Any statutory change that has the effect of exempting students served by special education from the administration of a state-required assessment would be in violation of federal law, would have a significant impact on the assessment program, and could potentially result in the USDE taking additional action on the state.

TEA has identified a few specific statutory recommendations in this report to improve the impact of the statewide assessment program on students in a special education program.



APPENDIX A:

NUMBERS OF STUDENTS RECEIVING SPECIAL EDUCATION SERVICES WHO ARE ASSESSED WITH STAAR

2015–2016 STAAR

Grade/Subject	3	4	5	6	7	8	EOC	
Math	28,940	31,746	33,964	33,922	32,514	30,234	Algebra I	29,371
Reading	28,929	31,708	33,936	34,013	32,792	30,693	English I	28,855
Writing	--	31,391	--	--	32,623	--	English II	25,653
Science	--	--	34,180	--	--	30,513	Biology	27,961
Social Studies	--	--	--	--	--	30,397	U.S. History	23,631

2016–2017 STAAR

Grade/Subject	3	4	5	6	7	8	EOC	
Math	30,271	33,015	34,101	34,301	33,087	31,481	Algebra I	29,701
Reading	30,247	33,004	34,074	34,329	33,426	32,035	English I	29,280
Writing	--	33,019	--	--	33,485	--	English II	26,449
Science	--	--	34,201	--	--	31,765	Biology	28,538
Social Studies	--	--	--	--	--	31,701	U.S. History	23,161

2017–2018 STAAR

Grade/Subject	3	4	5	6	7	8	EOC	
Math	32,880	34,759	35,792	34,973	33,466	32,189	Algebra I	31,021
Reading	32,830	34,726	35,738	35,064	33,882	32,769	English I	30,411
Writing	--	33,726	--	--	33,276	--	English II	26,868
Science	--	--	36,020	--	--	32,597	Biology	29,938
Social Studies	--	--	--	--	--	32,571	U.S. History	24,152



APPENDIX B:

NUMBERS OF STUDENTS RECEIVING SPECIAL EDUCATION SERVICES WHO ARE ASSESSED WITH STAAR ALTERNATE 2

2015–2016 STAAR Alternate 2

Grade/Subject	3	4	5	6	7	8	EOC	
Math	5,296	5,218	5,008	4,833	4,474	4,338	Algebra I	4,311
Reading	5,300	5,216	5,010	4,831	4,470	4,354	English I	4,261
Writing	--	5,215	--	--	4,477	--	English II	3,636
Science	--	--	5,009	--	--	4,357	Biology	4,097
Social Studies	--	--	--	--	--	4,359	U.S. History	3,516

2016–2017 STAAR Alternate 2

Grade/Subject	3	4	5	6	7	8	EOC	
Math	5,629	5,757	5,583	5,181	4,998	4,682	Algebra I	4,616
Reading	5,626	5,750	5,583	5,178	5,003	4,685	English I	4,606
Writing	--	5,740	--	--	4,999	--	English II	4,237
Science	--	--	5,584	--	--	4,680	Biology	4,415
Social Studies	--	--	--	--	--	4,681	U.S. History	3,615

2017–2018 STAAR Alternate 2

Grade/Subject	3	4	5	6	7	8	EOC	
Math	6,020	6,056	6,160	5,677	5,294	5,087	Algebra I	4,884
Reading	6,019	6,060	6,162	5,678	5,298	5,089	English I	4,868
Writing	--	6,054	--	--	5,296	--	English II	4,556
Science	--	--	6,164	--	--	5,087	Biology	4,861
Social Studies	--	--	--	--	--	5,081	U.S. History	4,274



APPENDIX C:

TOTAL NUMBERS OF STUDENTS RECEIVING SPECIAL EDUCATION SERVICES WHO ARE ASSESSED WITH EITHER STAAR OR STAAR ALTERNATE 2

2015–2016 Totals

Grade/Subject	3	4	5	6	7	8	EOC	
Math	34,236	36,964	38,972	38,755	36,988	34,572	Algebra I	33,682
Reading	34,229	36,924	38,946	38,844	37,262	35,047	English I	33,116
Writing	--	38,234	--	--	37,100	--	English II	29,289
Science	--	--	39,189	--	--	34,870	Biology	32,058
Social Studies	--	--	--	--	--	34,756	U.S. History	27,147

2016–2017 Totals

Grade/Subject	3	4	5	6	7	8	EOC	
Math	35,900	38,772	39,458	39,482	39,482	36,163	Algebra I	34,317
Reading	35,873	36,924	38,996	39,507	39,507	36,720	English I	33,886
Writing	--	38,234	--	--	39,482	--	English II	30,686
Science	--	--	39,785	--	--	36,445	Biology	32,953
Social Studies	--	--	--	--	--	36,382	U.S. History	26,776

2017–2018 Totals

Grade/Subject	3	4	5	6	7	8	EOC	
Math	38,903	40,814	41,939	40,738	39,170	37,843	Algebra I	44,290
Reading	38,852	40,786	41,891	40,649	39,174	37,266	English I	53,561
Writing	--	39,779	--	--	42,181	--	English II	41,133
Science	--	--	42,181	--	--	37,684	Biology	40,429
Social Studies	--	--	--	--	--	37,652	U.S. History	29,569