

The Texas Education Agency (TEA) adopts an amendment to §76.1001, concerning extracurricular activities. The amendment is adopted without changes to the proposed text as published in the November 9, 2018 issue of the *Texas Register* (43 TexReg 7429). The adopted amendment allows a student who has not passed all his or her classes but who is enrolled in a state-approved music course that participates in University Interscholastic League (UIL) Concert and Sightreading Evaluation to perform with the ensemble during the UIL evaluation performance.

REASONED JUSTIFICATION. Texas Education Code (TEC), §7.055(b)(41), requires the commissioner of education to adopt rules relating to extracurricular activities under TEC, §33.081, which limits the participation in and practice for extracurricular activities during the school day and the school week and establishes the parameters and exemptions of student participation in an extracurricular activity or a UIL competition as they relate to student grades.

Section 76.1001 establishes definitions, requirements, exceptions, and procedures for participation in and practice for extracurricular activities during the school day and school week.

Section 76.1001(a) defines an extracurricular activity as one that is sponsored by the UIL, the school district board of trustees, or an organization that has been sanctioned by the board of trustees. The activity is not necessarily directly related to instruction of the essential knowledge and skills but may have an indirect relation to some areas of the curriculum.

Currently, all UIL competitions are considered extracurricular and, therefore, are subject to students meeting certain grade requirements under TEC, §33.081(c), to be eligible for participation. UIL Concert and Sightreading Evaluation for music ensembles is the only UIL event in which participants do not compete against others. Ensembles receive a rating, there are no winners named, and ensembles do not advance toward another level of competition that culminates in a state championship. Participation in the contest is the culmination of a long-term project-based-learning curricular experience that is an extension of the classroom. To emphasize the event's purpose as being evaluative rather than competitive, the UIL Legislative Council changed the name of the event from UIL Concert and Sightreading Contest to UIL Concert and Sightreading Evaluation in November 2017.

Because UIL Concert and Sightreading Evaluation is curricular in nature and is not a competition among participants, TEA has determined that the event should not be subject to the grade requirements under TEC, §33.081(c).

The adopted amendment adds new subsection (a)(3) to allow students who have not passed all their classes but who are enrolled in a state-approved music course that participates in UIL Concert and Sightreading Evaluation to perform with the ensemble during the UIL evaluation performance.

SUMMARY OF COMMENTS AND AGENCY RESPONSES. The public comment period on the proposal began November 9, 2018, and ended December 10, 2018. Following is a summary of the public comments received and responses.

Comment. The Texas Theatre Association, the Texas Music Educators Association, the Texas Orchestra Directors Association, the Texas Choral Directors Association, the Texas Music Administrators Conference, the Association of Texas Small School Bands, the Center for Educator Development in Fine Arts, the Texas Bandmasters Association, two teachers, and three administrators expressed support for the rule change and stated that the UIL Concert and Sightreading Evaluation is a state evaluation of the Texas Essential Knowledge and Skills (TEKS) for music. The commenters stated that the rule change is important to the musical development of all students and will allow them to fully participate in all curricular performance events.

Response. The agency agrees and has determined that the proposal was appropriate as proposed.

Comment. Six teachers and one administrator expressed support for the rule change and stated that UIL Concert and Sightreading Evaluation is a state assessment of the music TEKS and not an extracurricular contest. The commenters stated that all students should be participating regardless of eligibility.

Response. The agency agrees and has determined that the proposal was appropriate as proposed.

Comment. Two teachers, four administrators, and three parents expressed disagreement with the proposal, stating that students who cannot pass their school classes should not be allowed to participate in extracurricular activities. The commenters expressed concern that if the proposed amendment is adopted, then students who are in athletics or other extracurricular activities will soon be allowed to participate without passing all their classes.

Response. The agency disagrees and has determined that UIL Concert and Sightreading Evaluation is not a competition because groups receive a rating and do not advance to additional rounds that culminate in a statewide winner. TEC, §33.081(f), specifies that a student who has failed a class and been suspended from participation is prohibited from taking part in a competition or other public performance.

Comment. One community member expressed disagreement with the proposal, stating that if the proposal is adopted, then an argument could be made that sports, art, and career and technical education competitions are curricular in nature also. The commenter stated that schools should ensure that students are passing all their subject areas.

Response. The agency disagrees and has determined that the proposal extends only to those students who participate in UIL Concert and Sightreading Evaluation. Additionally, the agency has determined that UIL Concert and Sightreading Evaluation is not a competition because groups receive a rating and do not advance to additional rounds that culminate in a statewide winner.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §7.055(b)(41), which requires the commissioner of education to adopt rules relating to extracurricular activities under TEC, §33.081, which limits the participation in and practice for extracurricular activities during the school day and the school week and establishes the parameters and exemptions of student participation in an extracurricular activity or a University Interscholastic League competition as they relate to student grades.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §7.055(b)(41).

<rule>

#### **§76.1001. Extracurricular Activities.**

- (a) An extracurricular activity is an activity sponsored by the University Interscholastic League (UIL), the school district board of trustees, or an organization sanctioned by resolution of the board of trustees. The activity is not necessarily directly related to instruction of the essential knowledge and skills but may have an indirect relation to some areas of the curriculum. Extracurricular activities include, but are not limited to, public performances, contests, demonstrations, displays, and club activities, with the exception of public performances specified in paragraphs (2) and (3) of this subsection.
  - (1) In addition, an activity shall be subject to the provisions for an extracurricular activity if any one of the following criteria apply:
    - (A) the activity is competitive;
    - (B) the activity is held in conjunction with another activity that is considered to be extracurricular;
    - (C) the activity is held off campus, except in a case in which adequate facilities do not exist on campus;
    - (D) the general public is invited; or
    - (E) an admission is charged.
  - (2) A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved course that requires demonstration of the mastery of the essential knowledge and skills in a public performance, may participate in the performance subject to the following requirements and limitations.

- (A) Only the criterion listed in paragraph (1)(D) of this subsection applies to the performance.
  - (B) The requirement for student participation in public is stated in the essential knowledge and skills of the course.
- (3) A student ineligible to participate in an extracurricular activity, but who is enrolled in a state-approved music course that participates in UIL Concert and Sightreading Evaluation, may perform with the ensemble during the UIL evaluation performance.
- (b) The school week is defined as beginning at 12:01 a.m. on the first instructional day of the calendar week and ending at the close of instruction on the last instructional day of the calendar week, excluding holidays.
- (c) In accordance with the provisions of the Texas Education Code (TEC), §33.0811, the number of times that a school district may allow a student to miss a class for extracurricular participation during a school year shall be determined by the school district board of trustees. Each school district must maintain an accurate record of extracurricular absences for each student in the school district each school year.
- (d) Limitations on practice, rehearsal, and student participation in extracurricular activities during the school week shall be as follows.
  - (1) For any given extracurricular activity, a student may not participate in more than one activity per school week, excluding holidays, except as provided in paragraph (2) of this subsection.
  - (2) In addition to the limit specified in paragraph (1) of this subsection of one extracurricular activity permitted per school week, a student may also participate in a tournament or post-district contest, as well as a contest postponed by weather or public disaster that may determine advancement to a post-district level of competition.
  - (3) For each extracurricular activity, a school district must limit students to a maximum of eight hours of practice and rehearsal outside the school day per school week.
  - (4) The commissioner of education recommends that school districts avoid scheduling extracurricular activities or public performances on the day or evening immediately preceding the day on which the administration of the statewide student assessment program is scheduled for Grades 3-11.
- (e) Limitations on practice and rehearsal for extracurricular activities during the school day shall be as follows.
  - (1) A school district must limit a student to one period of practice during the regularly scheduled school day for extracurricular activities, such as athletics, or drill team, or cheerleading.
  - (2) The limit specified in paragraph (1) of this subsection of one period per school day for practice in an extracurricular activity does not prohibit a student from enrolling in any state-approved class. A student who is enrolled in a state-approved class that includes essential knowledge and skills that relate to the preparation for an extracurricular activity may practice that extracurricular activity no more than one period during the school day.
  - (3) A student may not be permitted to miss a scheduled academic class to practice for an unrelated extracurricular activity.
  - (4) A school district must limit extracurricular practice during the school day to ensure that class periods for extracurricular practice do not exceed the time allotted for other class periods.
  - (5) A school operates on a traditional class schedule or on a non-traditional class schedule, such as an alternating, accelerated, or a modified block schedule. Regardless of the schedule type in place, a school may elect to practice extracurricular activities daily, provided the total minutes allowed for the extracurricular practice is not greater than 300 minutes during the school week.
- (f) The provisions of this section apply to any UIL activity. Any other organization requiring student participation that causes a student to miss a class may request sanction from the school district board of trustees. If the organization is sanctioned by resolution of the board of trustees, student participation in the organization's activities shall be subject to all provisions of this section and statute. Any absence incurred by a student while participating with an organization that has not received sanction from the school district board of trustees shall be subject to provisions of the TEC related to student attendance.