

The Texas Education Agency (TEA) adopts an amendment to §101.5001, concerning the statewide testing calendar. The amendment is adopted without changes to the proposed text as published in the August 30, 2019 issue of the *Texas Register* (44 TexReg 4622) and will not be republished. The adopted amendment modifies the rule to provide clarification to new statutory provisions made by House Bill (HB) 3906, 86th Texas Legislature, 2019.

REASONED JUSTIFICATION: Section 101.5001(a) allows the commissioner of education to determine the school week during the school year in which the primary administrations of assessment instruments are administered.

HB 3906, 86th Texas Legislature, 2019, amended the Texas Education Code, §39.023(c-3), to prohibit scheduling the State of Texas Assessments of Academic Readiness (STAAR®) testing on the first instructional day of the week. The adopted amendment modifies the rule to provide clarification indicating that Monday is "the first instructional day of a week" for the purpose of scheduling assessment instruments.

SUMMARY OF COMMENTS AND AGENCY RESPONSES: The public comment period on the proposal began August 30, 2019, and ended September 30, 2019. Following is a summary of public comments received and corresponding agency responses.

Comment: Administrators from Austin Independent School District (ISD) and Cypress-Fairbanks ISD commented that the rule should be clarified as to which assessment programs this new policy applies.

Response: The agency disagrees. The law specifies that this new policy applies to assessment instruments under TEC, §39.023(a) and (c), i.e., the Grades 3-8 and end-of-course assessments.

Comment: An individual commented that the rule would require students to test on a Tuesday in situations where a student holiday falls on a Monday.

Response: The agency agrees. Although the agency attempts to avoid testing on the first day after a state holiday, it is not always possible. For example, there are some weeks that involve scheduling four to five tests. The tests need to occur within the same week to limit security issues, and with the new law that only leaves four days to test.

Comment: Administrators from Austin ISD, Cypress-Fairbanks ISD, New Caney ISD, and Spring Branch ISD commented that high school students who need to take all five end-of-course assessments would not have enough time to take all five tests during the December or June administrations.

Response: The agency disagrees. Although it is not best practice, the agency does not prohibit administering more than one assessment per day if necessary. District personnel should consider this option on an individual student basis and determine what is in the best interest of the student.

STATUTORY AUTHORITY. The amendment is adopted under Texas Education Code (TEC), §33.0812, which provides the commissioner the authority to establish the testing calendar; TEC, §39.023(c-3), as amended by House Bill 3906, 86th Texas Legislature, 2019, which limits the days in which testing may be scheduled for assessments under TEC, §39.023(a) and (c), by prohibiting testing on the first instructional day of a week.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §33.0812 and §39.023, as amended by House Bill 3906, 86th Texas Legislature, 2019.

<rule>

§101.5001. Testing Calendar.

- (a) In accordance with Texas Education Code (TEC), §33.0812, the commissioner of education shall determine the school week during the school year in which the primary administrations of assessment instruments are administered. For the purpose of scheduling assessment instruments under TEC, §39.023(a) and (c), the first instructional day of a week is Monday.

- (b) Through publication on the Texas Education Agency website, the commissioner shall provide the University Interscholastic League (UIL) with a three-year calendar of dates, beginning with the 2006-2007 school year, reserved for testing on or before May 1 of the year preceding the three-year cycle of reserved testing dates.
- (c) The commissioner may change the dates reserved for testing as necessary. The commissioner shall notify the UIL of any changes to the schedule for the primary administrations of the statewide assessments.
- (d) If a change to the primary administration testing calendar creates a scheduling conflict between a UIL area, regional, or state competition and the statewide assessments, the commissioner shall determine whether those UIL events must be cancelled or rescheduled.