

The State Board of Education (SBOE) proposes an amendment to §74.11, concerning high school graduation requirements. The proposed amendment would update the rule to align with the requirement in House Bill (HB) 3, 86th Texas Legislature, 2019, that students complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA) as a requirement for high school graduation. The amendment would also specify when a student may demonstrate proficiency in certain communication skills required for graduation.

**BACKGROUND INFORMATION AND JUSTIFICATION:** The 86th Texas Legislature, 2019, passed HB 3, amending Texas Education Code (TEC), §28.025(c), and adding new TEC, §28.0256, to require a student to complete a financial aid application, FAFSA or TASFA, in order to graduate. In accordance with TEC, §28.0256(b), a student is not required to comply with the financial aid application requirement if the student's parent or guardian submits a signed opt out form authorizing the student to decline to complete and submit a financial aid application. The student may submit the opt out form on the student's own behalf if the student is 18 years of age or older or is an emancipated youth under Texas Family Code, Chapter 31. A school counselor may also authorize the student to decline to complete and submit a financial aid application for good cause, as determined by the school counselor. The opt out form must be approved by the Texas Education Agency (TEA).

The proposed amendment would add new subsection (b) to align with the financial aid application requirement and include options by which a student may opt out of the requirement.

Additionally, in response to requests for clarification from school districts, subsection (a)(3) would be amended to specify that a student may demonstrate proficiency in the communication skills identified in the paragraph beginning in Grade 8.

The SBOE approved the proposed amendment for first reading and filing authorization at its November 20, 2020 meeting.

**FISCAL IMPACT:** Monica Martinez, associate commissioner for standards and support services, has determined that for the first five years the proposal is in effect, it would have no fiscal impact to state or local government beyond what is required by the authorizing statute. HB 3 requires school districts and charter schools to monitor and report the completion of the financial aid application requirement, which will have a cost to the state. The 86th Texas Legislature, 2019, appropriated \$1.5 million for the creation of a database to track TASFA completion electronically.

**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 requiring students to either submit a financial aid application or to opt out of the graduation requirement.

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 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 promoting students' completion of financial aid applications and eligibility to receive financial aid. There is no anticipated economic cost to persons who are required to comply with the proposal.

**DATA AND REPORTING IMPACT:** The proposal would have data and reporting implications. TEC, §28.026(e)(2), requires each school district to report to the agency the number of students who complete and submit a financial aid application and the number of students who opted out of the financial aid requirement.

**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:** The public comment period on the proposal begins December 18, 2020, and ends at 5:00 p.m. on January 22, 2021. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About\\_TEA/Laws\\_and\\_Rules/SBOE\\_Rules\\_\(TAC\)/Proposed\\_State\\_Board\\_of\\_Education\\_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/SBOE_Rules_(TAC)/Proposed_State_Board_of_Education_Rules/). The SBOE will take registered oral and written comments on the proposal at the appropriate committee meeting in January 2021 in accordance with the SBOE board operating policies and procedures. 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 December 18, 2020.

**STATUTORY AUTHORITY.** The amendment is proposed under Texas Education Code (TEC), §7.102(c)(4), which requires the State Board of Education (SBOE) to establish curriculum and graduation requirements; TEC, §28.025(c), as amended by House Bill (HB) 3, 86th Texas Legislature, 2019, which requires that, in order to receive a high school diploma, a student must complete the curriculum requirements identified by the State Board of Education and comply with the financial aid application requirement in accordance with TEC, §28.0256; TEC, §28.0256(a), as added by HB 3, 86th Texas Legislature, 2019, which requires each student to complete and submit a free application for federal student aid or a Texas application for state financial aid before graduating from high school; TEC, §28.0256(b), as added by HB 3, 86th Texas Legislature, 2019, which provides an exception to students to opt out of the financial aid application requirement under TEC, §28.0256(a), by submitting a form signed by a parent, guardian, or student aged 18 years old or older, that authorizes the student to decline to comply with the financial aid application graduation requirement. A high school counselor may also authorize a student to decline to comply with the financial aid application graduation requirement for good cause; and TEC, §28.0256(d), as added by HB 3, 86th Texas Legislature, 2019, which specifies that if a school counselor notifies a school district whether a student has complied with the requirement under TEC, §28.0256(a) or (b), the school counselor may only indicate whether the student has complied with this section and may not indicate the manner in which the student complied.

**CROSS REFERENCE TO STATUTE.** The amendment implements Texas Education Code, §§7.102(c)(4); 28.025(c), as amended by House Bill (HB) 3, 86th Texas Legislature, 2019; and 28.0256(a), (b), and (d), as added by HB 3, 86th Texas Legislature, 2019.

<rule>

#### **§74.11. High School Graduation Requirements.**

- (a) To receive a high school diploma, a student entering Grade 9 in the 2014-2015 school year and thereafter must complete the following:
  - (1) in accordance with subsection (d) [~~(e)~~] of this section, requirements of the Foundation High School Program specified in §74.12 of this title (relating to Foundation High School Program);

- (2) testing requirements for graduation as specified in Chapter 101 of this title (relating to Assessment); and
  - (3) demonstrated proficiency, in Grade 8 or higher, as determined by the district in which the student is enrolled, in delivering clear verbal messages; choosing effective nonverbal behaviors; listening for desired results; applying valid critical-thinking and problem-solving processes; and identifying, analyzing, developing, and evaluating communication skills needed for professional and social success in interpersonal situations, group interactions, and personal and professional presentations.
- (b) Before graduating from high school, each student in Grade 12 must complete and submit a free application for federal student aid (FAFSA) or a Texas application for state financial aid (TASFA). A student may graduate under the Foundation High School Program without completing a financial aid application if:
- (1) the student's parent or other person standing in parental relation submits a signed form, approved by the Texas Education Agency (TEA), indicating that the parent or other person authorizes the student to decline to complete and submit the financial aid application;
  - (2) the student signs and submits the form described by paragraph (1) of this subsection on the student's own behalf if the student is 18 years of age or older or has been emancipated under Texas Family Code, Chapter 31; or
  - (3) a school counselor authorizes the student to decline to complete and submit the financial aid application for good cause, as determined by the school counselor. If a school counselor notifies a school district that a student has declined to complete and submit a financial aid application for good cause, the school counselor may not indicate details regarding what constitutes good cause.
- (c) ~~(b)~~ A school district shall clearly indicate the distinguished level of achievement under the Foundation High School Program, an endorsement, and a performance acknowledgment on the transcript or academic achievement record (AAR) of a student who satisfies the applicable requirements.
- (d) ~~(e)~~ A student entering Grade 9 in the 2014-2015 school year and thereafter shall enroll in the courses necessary to complete the curriculum requirements for the Foundation High School Program specified in §74.12 of this title and the curriculum requirements for at least one endorsement specified in §74.13 of this title (relating to Endorsements).
- (e) ~~(d)~~ A student may graduate under the Foundation High School Program without earning an endorsement if, after the student's sophomore year:
- (1) the student and the student's parent or person standing in parental relation to the student are advised by a school counselor of the specific benefits of graduating from high school with one or more endorsements; and
  - (2) the student's parent or person standing in parental relation to the student files with a school counselor written permission, on a form adopted by the TEA ~~[Texas Education Agency (TEA)]~~, allowing the student to graduate under the Foundation High School Program without earning an endorsement.
- (f) ~~(e)~~ A student may earn a distinguished level of achievement by successfully completing the curriculum requirements for the Foundation High School Program and the curriculum requirements for at least one endorsement required by the Texas Education Code (TEC), §28.025(b-15), including four credits in science and four credits in mathematics to include Algebra II.
- (g) ~~(f)~~ An out-of-state or out-of-country transfer student (including foreign exchange students) or a transfer student from a Texas nonpublic school is eligible to receive a Texas diploma but must complete all requirements of this section to satisfy state graduation requirements. Any course credit required in this section that is not completed by the student before he or she enrolls in a Texas school district may be satisfied through the provisions of §74.23 of this title (relating to Correspondence Courses and Distance Learning) and §74.24 of this title (relating to Credit by Examination) or by completing the course or courses according to the provisions of §74.26 of this title (relating to Award of Credit).
- (h) ~~(g)~~ Elective credits may be selected from the following:

- (1) high school courses not required for graduation that are listed in the following chapters of this title:
    - (A) Chapter 110 of this title (relating to Texas Essential Knowledge and Skills for English Language Arts and Reading);
    - (B) Chapter 111 of this title (relating to Texas Essential Knowledge and Skills for Mathematics);
    - (C) Chapter 112 of this title (relating to Texas Essential Knowledge and Skills for Science);
    - (D) Chapter 113 of this title (relating to Texas Essential Knowledge and Skills for Social Studies);
    - (E) Chapter 114 of this title (relating to Texas Essential Knowledge and Skills for Languages Other Than English);
    - (F) Chapter 115 of this title (relating to Texas Essential Knowledge and Skills for Health Education);
    - (G) Chapter 116 of this title (relating to Texas Essential Knowledge and Skills for Physical Education);
    - (H) Chapter 117 of this title (relating to Texas Essential Knowledge and Skills for Fine Arts);
    - (I) Chapter 127 of this title (relating to Texas Essential Knowledge and Skills for Career Development); and
    - (J) Chapter 130 of this title (relating to Texas Essential Knowledge and Skills for Career and Technical Education);
  - (2) state-approved innovative courses as specified in §74.27 of this title (relating to Innovative Courses and Programs);
  - (3) Junior Reserve Officer Training Corps (JROTC)--one to four credits; and
  - (4) Driver Education--one-half credit.
- (i) ~~(h)~~ Courses offered for dual credit at or in conjunction with an institution of higher education that provide advanced academic instruction beyond, or in greater depth than, the essential knowledge and skills for the equivalent high school course required for graduation may satisfy graduation requirements, including requirements for required courses, advanced courses, and courses for elective credit as well as requirements for endorsements.
- (j) ~~(i)~~ A student may not be enrolled in a course that has a required prerequisite unless:
- (1) the student has successfully completed the prerequisite course(s);
  - (2) the student has demonstrated equivalent knowledge as determined by the school district; or
  - (3) the student was already enrolled in the course in an out-of-state, an out-of-country, or a Texas nonpublic school and transferred to a Texas public school prior to successfully completing the course.
- (k) ~~(j)~~ A district may award credit for a course a student completed without meeting the prerequisites if the student completed the course in an out-of-state, an out-of-country, or a Texas nonpublic school where there was not a prerequisite.
- (l) ~~(k)~~ A district shall allow a student who successfully completes AP Computer Science A or IB Computer Science Higher Level to satisfy both one advanced mathematics requirement and one languages other than English requirement for graduation.
- (m) ~~(l)~~ Each school district shall annually report to the TEA the names of the locally developed courses, programs, institutions of higher education, and internships in which the district's students have enrolled as authorized by the TEC, §28.002(g-1). The TEA shall make available information provided under this subsection to

other districts. If a district chooses, it may submit any locally developed course for approval under §74.27 of this title as an innovative course.

(n) ~~(m)~~ Each school district shall annually report to the TEA the names of cybersecurity courses approved by the board of trustees for credit and the institutions of higher education in which the district's students have enrolled as authorized by the TEC, §28.002(g-3). The TEA shall make available information provided under this subsection to other districts. If a district chooses, it may submit any locally developed course for approval under §74.27 of this title as an innovative course.

(o) ~~(n)~~ A school district shall permit a student to comply with the curriculum requirements under the Foundation High School Program by successfully completing appropriate courses in the core curriculum of an institution of higher education (IHE). A student who has completed the core curriculum of an IHE in accordance with TEC, §61.822, as certified by the IHE in accordance with §4.28 of this title (relating to Core Curriculum):

- (1) is considered to have earned an endorsement by successfully completing the appropriate courses for that endorsement;
- (2) is considered to have earned a distinguished level of achievement under the Foundation High School Program; and
- (3) is entitled to receive a high school diploma.