

HB 2804, Section 1 and Section 2

CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY

Sec. 39.053. PERFORMANCE INDICATORS: ACHIEVEMENT.

(a) The commissioner shall adopt a set of indicators of the quality of learning and achievement. The commissioner biennially shall review the indicators for the consideration of appropriate revisions.

(a-1) The indicators adopted by the commissioner under Subsection (a), including the indicators identified under Subsection (c), must measure and evaluate school districts and campuses with respect to:

- (1) improving student preparedness for success in:
 - (A) subsequent grade levels; and
 - (B) entering the workforce, the military, or postsecondary education;
- (2) reducing, with the goal of eliminating, student academic achievement differentials among students from different racial and ethnic groups and socioeconomic backgrounds; and
- (3) informing parents and the community regarding campus and district performance in the domains described by Subsection (c) and, for the domain described by Subsection (c)(5), in accordance with local priorities and preferences.

(b) Performance on the achievement indicators adopted under Subsections (c)(1)-(4) shall be compared to state-established standards. The indicators must be based on information that is disaggregated by race, ethnicity, and socioeconomic status.

(c) School districts and campuses must be evaluated based on five domains of indicators of achievement adopted under this section that include:

- (1) in the first domain, the results of:
 - (A) assessment instruments required under Sections 39.023(a), (c), and (1), including the results of assessment instruments required for graduation retaken by a student, aggregated across grade levels by subject area, including:

(i) for the performance standard determined by the commissioner under Section 39.0241(a), the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(ii) for the college readiness performance standard as determined under Section 39.0241, the percentage of students who performed satisfactorily on the assessment instruments, aggregated across grade levels by subject area; and

(B) assessment instruments required under Section 39.023(b), aggregated across grade levels by subject area, including the percentage of students who performed satisfactorily on the assessment instruments, as determined by the performance standard adopted by the agency, aggregated across grade levels by subject area;

(2) in the second domain:

(A) for assessment instruments under Subdivision (1)(A):

(i) for the performance standard determined by the commissioner under Section 39.0241(a), the percentage of students who met the standard for annual improvement on the assessment instruments, as determined by the commissioner by rule or by the method for measuring annual improvement under Section 39.034, aggregated across grade levels by subject area; and

(ii) for the college readiness performance standard as determined under Section 39.0241, the percentage of students who met the standard for annual improvement on the assessment instruments, as determined by the commissioner by rule or by the method for measuring annual improvement under Section 39.034, aggregated across grade levels by subject area; and

(B) for assessment instruments under Subdivision (1)(B), the percentage of students who met the standard for annual improvement on the assessment instruments, as determined by the commissioner by rule or by the method for measuring annual improvement under Section 39.034, aggregated across grade levels by subject area;

(3) in the third domain, the student academic achievement differentials among students from different racial and ethnic groups and socioeconomic backgrounds;

(4) in the fourth domain:

(A) for evaluating the performance of high school campuses and districts that include high school campuses:

(i) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education;

(ii) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.);

(iii) the percentage of students who successfully completed the curriculum requirements for the distinguished level of achievement under the foundation high school program;

(iv) the percentage of students who successfully completed the curriculum requirements for an endorsement under Section 28.025(c-1);

(v) the percentage of students who completed a coherent sequence of career and technical courses;

(vi) the percentage of students who satisfy the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument in reading, writing, or mathematics designated by the Texas Higher Education Coordinating Board under Section 51.3062(c);

(vii) the percentage of students who earn at least 12 hours of postsecondary credit required for the foundation high school program under Section 28.025 or to earn an endorsement under Section 28.025(c-1);

(viii) the percentage of students who have completed an advanced placement course;

(ix) the percentage of students who enlist in the armed forces of the United States; and

(x) the percentage of students who earn an industry certification;

(B) for evaluating the performance of middle and junior high school and elementary school campuses and districts that include those campuses:

(i) student attendance; and

(ii) for middle and junior high school campuses:

(a) dropout rates, computed in the manner described by Paragraph (A)(i); and

(b) the percentage of students in grades seven and eight who receive instruction in preparing for high school, college, and a career that includes information regarding the creation of a high school personal graduation plan under Section 28.02121, the distinguished level of achievement described by Section 28.025(b-15), each endorsement described by Section 28.025(c-1), college readiness standards, and potential career choices and the education needed to enter those careers; and

(C) any additional indicators of student achievement not associated with performance on standardized assessment instruments determined appropriate for consideration by the commissioner in consultation with educators, parents, business and industry representatives, and employers; and

(5) in the fifth domain, three programs or specific categories of performance related to community and student engagement locally selected and evaluated as provided by Section 39.0546.

(c-1) An indicator adopted under Subsection (c) that would measure improvements in student achievement cannot negatively affect the commissioner's review of a school district or campus if that district or campus is already achieving at the highest level for that indicator.

(c-2) The commissioner by rule shall determine a method by which a student's performance may be included in determining the

performance rating of a school district or campus under Section 39.054 if, before the student graduates, the student:

(1) satisfies the Texas Success Initiative (TSI) college readiness benchmarks prescribed by the Texas Higher Education Coordinating Board under Section 51.3062(f) on an assessment instrument designated by the Texas Higher Education Coordinating Board under Section 51.3062(c);

(2) performs satisfactorily on an assessment instrument under Section 39.023(c), notwithstanding Subsection (d).

(d) For purposes of Subsection (c), the commissioner by rule shall determine the period within which a student must retake an assessment instrument for that assessment instrument to be considered in determining the performance rating of the district under Section 39.054.

(d-1) In aggregating results of assessment instruments across grade levels by subject in accordance with Subsection (c)(1), the performance of a student enrolled below the high school level on an assessment instrument required under Section 39.023(c) is included with results relating to other students enrolled at the same grade level.

(e) REPEALED

(f) Annually, the commissioner shall define the state standard for the current school year for each achievement indicator described by Subsections (c)(1)-(4) and shall project the state standards for each indicator for the following two school years. The commissioner shall periodically raise the state standards for the college readiness achievement indicator described by Subsection (c)(1)(A)(ii) for accreditation as necessary to reach the goals of achieving, by not later than the 2019-2020 school year:

(1) student performance in this state, disaggregated by race, ethnicity, and socioeconomic status, that ranks nationally in the top 10 states in terms of college readiness; and

(2) student performance with no significant achievement gaps by race, ethnicity, and socioeconomic status.

(g) In defining the required state standard for the dropout rate indicator described by Subsection (c)(4)(A)(i) and (B)(ii)(a), the commissioner may not consider as a dropout a student whose failure to attend school results from:

(1) the student's expulsion under Section 37.007; and

(2) as applicable:

(A) adjudication as having engaged in delinquent conduct or conduct indicating a need for supervision, as defined by Section 51.03, Family Code; or

(B) conviction of and sentencing for an offense under the Penal Code.

(g-1) In computing dropout and completion rates under Subsections (c)(4)(A)(i) and (B)(ii)(a), the commissioner shall exclude:

(1) students who are ordered by a court to attend a high school equivalency certificate program but who have not yet earned a high school equivalency certificate;

(2) students who were previously reported to the state as dropouts, including a student who is reported as a dropout, reenrolls, and drops out again, regardless of the number of times of reenrollment and dropping out;

(3) students in attendance who are not in membership for purposes of average daily attendance;

(4) students whose initial enrollment in a school in the United States in grades 7 through 12 was as unschooled refugees or asylees as defined by Section 39.027(a-1);

(5) students who are in the district exclusively as a function of having been detained at a county detention facility but are otherwise not students of the district in which the facility is located; and

(6) students who are incarcerated in state jails and federal penitentiaries as adults and as persons certified to stand trial as adults.

SB 1867 (applies beginning with the 2015–16 school year)

(g-2) In computing completion rates under Subsection (c)(2), the commissioner shall exclude students who:

(1) are at least 18 years of age as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission and have satisfied the credit requirements for high school graduation;

(2) have not completed their individualized education program under 19 T.A.C. Section 89.1070(b)(2) and the Individuals with Disabilities Education Act (20 U.S.C. Section 1400 et seq.); and

(3) are enrolled and receiving individualized education program services.

(h) Each school district shall cooperate with the agency in determining whether a student is a dropout for purposes of accreditation and evaluating performance by school districts and campuses under this chapter.

(i) The commissioner by rule shall adopt accountability measures to be used in assessing the progress of students who have failed to perform satisfactorily as determined by the commissioner under Section 39.0241(a) or under the college readiness standard as determined under Section 39.0241 in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (l).

HB 2804, Section 3 (applies beginning with the 2015–16 school year)

Sec. 39.0535. TEMPORARY PROVISION: ASSIGNMENT OF PERFORMANCE RATINGS. (a) Notwithstanding any other law, the commissioner shall assign each district and campus a performance rating not later than August 15 of each year.

(b) This section expires September 1, 2016.

HB 2804, Section 4 (applies beginning with the 2016–17 school year)

Sec. 39.054. METHODS AND STANDARDS FOR EVALUATING PERFORMANCE.

(a) The commissioner shall adopt rules to evaluate school district and campus performance and assign each district and campus a performance rating. In adopting rules under this subsection, the commissioner shall determine the criteria for each performance rating. Not later than August 15 of each year, the performance rating of each district and campus shall be made publicly available as provided by rules adopted under this subsection. If a district or campus received a performance rating that reflected unacceptable performance for the preceding school year, the commissioner shall notify the district of a subsequent such designation on or before June 15.

HB 2804, Section 5 (applies beginning with the 2017–18 school year)

Sec. 39.054. METHODS AND STANDARDS FOR EVALUATING PERFORMANCE.

(a) The commissioner shall adopt rules to evaluate school district and campus performance and assign each district and campus an overall performance rating of A, B, C, D, or F. In addition to the overall performance rating, the commissioner shall assign each district and campus a separate domain performance rating of A, B, C, D, or F for each domain under Sections 39.053(c)(1)-(4). An overall or domain performance rating of A reflects exemplary performance. An overall or domain performance rating of B reflects recognized performance. An overall or domain performance rating of C reflects acceptable performance. An overall or domain performance rating of D or F reflects unacceptable performance. A district may not receive an overall or domain performance rating of A if the district includes any campus with a corresponding overall or domain performance rating of D or F. A reference in law to an acceptable rating or acceptable performance includes an overall or domain performance rating of A, B, or C or exemplary, recognized, or acceptable performance.

(a-1) For purposes of assigning an overall performance rating under Subsection (a), the commissioner shall attribute:

(1) 55 percent of the performance evaluation to the achievement indicators for the first, second, and third domains under Sections 39.053(c)(1)-(3);

(2) for middle and junior high school and elementary campuses and districts that include only those campuses, 35 percent of the performance evaluation to the applicable achievement indicators for the fourth domain under Section 39.053(c)(4);

(3) for high school campuses and districts that include those campuses:

(A) 10 percent of the performance evaluation to the high school graduation rate achievement indicator described by Section 39.053(c)(4)(A)(ii); and

(B) 25 percent to the remaining applicable achievement indicators for the fourth domain under Section 39.053(c)(4); and

(4) 10 percent of the performance evaluation to the locally selected and evaluated achievement indicators provided for under the fifth domain under Section 39.053(c)(5).

(a-2) The commissioner by rule shall adopt procedures to ensure that a repeated performance rating of D or F or unacceptable in one domain, particularly performance that is not significantly improving, is reflected in the overall performance rating of a district or campus and is not compensated for by a performance rating of A, B, or C in another domain.

(a-3) Not later than August 15 of each year, the performance ratings of each district and campus shall be made publicly available as provided by rules adopted under this section. If a district or campus received an overall or domain performance rating of D or F for the preceding school year, the commissioner shall notify the district of a subsequent such designation on or before June 15.

(b) REPEALED

(b-1) Consideration of the effectiveness of district programs under Section 39.052(b)(2)(B) or (C):

(1) must:

(A) be based on data collected through the Public Education Information Management System (PEIMS) for purposes of accountability under this chapter; and

(B) include the results of assessments required under Section 39.023; and

(2) may be based on the results of a special accreditation investigation conducted under Section 39.057.

(c) In evaluating school district and campus performance on the achievement indicators for student performance on assessment instruments adopted under Sections 39.053(c)(1) and (2) and the dropout rate indicator adopted under Sections 39.053(c)(4)(A)(i) and (B)(ii)(a), the commissioner shall define acceptable performance as meeting the state standard determined by the commissioner under Section 39.053(f) for the current school year based on:

(1) student performance in the current school year; or

(2) student performance as averaged over the current school year and the preceding two school years.

(d) REPEALED

(d-1) REPEALED

(e) Each annual performance review under this section shall include an analysis of the achievement indicators adopted under Sections 39.053(c)(1)-(4) to determine school district and campus performance in relation to standards established for each indicator.

(f) In the computation of dropout rates under Sections 39.053(c)(4)(A)(i) and (B)(ii)(a), a student who is released from a juvenile pre-adjudication secure detention facility or juvenile post-adjudication secure correctional facility and fails to enroll in school or a student who leaves a residential treatment center after receiving treatment for fewer than 85 days and fails to enroll in school may not be considered to have dropped out from the school

district or campus serving the facility or center unless that district or campus is the one to which the student is regularly assigned. The agency may not limit an appeal relating to dropout computations under this subsection.

HB 2804, Section 6

Sec. 39.0545. EVALUATING DROPOUT RECOVERY SCHOOLS.

(a) For purposes of evaluating performance under Section 39.053(c), the commissioner shall designate as a dropout recovery school a school district or an open-enrollment charter school or a campus of a district or of an open-enrollment charter school:

(1) that serves students in grades 9 through 12 and has an enrollment of which at least 50 percent of the students are 17 years of age or older as of September 1 of the school year as reported for the fall semester Public Education Information Management System (PEIMS) submission; and

(2) that meets the eligibility requirements for and is registered under alternative education accountability procedures adopted by the commissioner.

(b) Notwithstanding Section 39.053(c)(4)(A)(i), the commissioner shall use the alternative completion rate under this subsection to determine the dropout rate indicator under Section 39.053(c)(4)(A)(i) for a dropout recovery school. The alternative completion rate shall be the ratio of the total number of students who graduate, continue attending school into the next academic year, or receive a high school equivalency certificate to the total number of students in the longitudinal cohort of students.

(c) Notwithstanding Section 39.053(c)(4)(A)(i), in determining the performance rating under Section 39.054 of a dropout recovery school, the commissioner shall include any student described by Section 39.053(g-1) who graduates or receives a high school equivalency certificate.

(d) Notwithstanding Section 39.053(c), for purposes of evaluating a dropout recovery school under the accountability procedures adopted by the commissioner to determine the performance rating of the school under Section 39.054:

(1) only the best result from the primary administration or any retake of an assessment instrument administered to a student in the school year evaluated may be considered; and

(2) only a student enrolled continuously for at least 90 days during the school year evaluated may be considered.

HB 2804, Section 7

Sec. 39.0546. PERFORMANCE IN COMMUNITY AND STUDENT ENGAGEMENT AS COMPONENT OF OVERALL DISTRICT AND CAMPUS RATING.

(a) For purposes of including the local evaluation of districts and campuses under Section 39.053(c)(5) and assigning an overall rating under Section 39.054, before the beginning of each school year:

(1) each school district shall:

(A) select and report to the agency three programs or categories under Section 39.0545(b)(1), as added by Chapter 211 (H.B. 5), Acts of the 83rd Legislature, Regular Session, 2013, under which the district will evaluate district performance;

(B) submit to the agency the criteria the district will use to evaluate district performance and assign the district a performance rating; and

(C) make the information described by Paragraphs (A) and (B) available on the district's Internet website; and

(2) each campus shall:

(A) select and report to the agency three programs or categories under Section 39.0545(b)(1), as added by Chapter 211 (H.B. 5), Acts of the 83rd Legislature, Regular Session, 2013, under which the campus will evaluate campus performance;

(B) submit to the agency the criteria the campus will use to evaluate campus performance and assign the campus a performance rating; and

(C) make the information described by Paragraphs (A) and (B) available on the Internet website of the campus.

(b) Based on the evaluation under this section, each school district shall assign the district and each campus shall assign the campus a performance rating of A, B, C, D, or F, for both overall performance and for each program or category evaluated. An overall or a program or category performance rating of A reflects exemplary performance. An overall or a program or category performance rating of B reflects recognized performance. An overall or a program or category performance rating of C reflects acceptable performance. An overall or a program or category performance rating of D or F reflects unacceptable performance.

(c) On or before the date determined by the commissioner by rule, each school district and campus shall report each performance rating to the agency for the purpose of including the rating in evaluating school district and campus performance and assigning an overall rating under Section 39.054.

HB 2804, Section 8 (applies beginning with the 2015–16 school year)

SUBCHAPTER N. TEXAS COMMISSION ON NEXT GENERATION ASSESSMENTS AND ACCOUNTABILITY

Sec. 39.501. DEFINITION. In this subchapter, "commission" means the Texas Commission on Next Generation Assessments and Accountability.

Sec. 39.502. TEXAS COMMISSION ON NEXT GENERATION ASSESSMENTS AND ACCOUNTABILITY. (a) The Texas Commission on Next Generation Assessments and Accountability is established to develop and make recommendations for new systems of student assessment and public school accountability.

(b) The commission is composed of 15 members, consisting of the following:

- (1) four members appointed by the governor;

- (2) three members appointed by the lieutenant governor;
- (3) three members appointed by the speaker of the house of representatives;
- (4) the chair of the senate committee on education, or a representative designated by the chair;
- (5) the chair of the senate committee on higher education, or a representative designated by the chair;
- (6) the chair of the house of representatives committee on public education, or a representative designated by the chair;
- (7) the chair of the house of representatives committee on higher education, or a representative designated by the chair; and
- (8) a member of the State Board of Education, as designated by the chair of that board.

(c) In making appointments under Subsections (b)(1), (2), and (3), the governor, lieutenant governor, and speaker of the house of representatives shall coordinate to ensure that the commission includes at least one of each of the following representatives:

- (1) a parent or person standing in parental relation to a student enrolled in the public school system;
- (2) an educator in the public school system;
- (3) an educator in a school district that is a participant in the Texas High Performance Schools Consortium under Section 7.0561;
- (4) a member of the business community;
- (5) a member of the civic community;
- (6) a leader in student assessment development and use; and
- (7) a leader in research concerning student assessment and education outcomes.

Sec. 39.503. PRESIDING OFFICER. The governor shall designate the presiding officer of the commission.

Sec. 39.504. COMPENSATION AND REIMBURSEMENT. A member of the commission is not entitled to compensation for service on the commission but is entitled to reimbursement for actual and necessary expenses incurred in performing commission duties.

Sec. 39.505. ADMINISTRATIVE SUPPORT AND FUNDING. (a) Staff members of the agency shall provide administrative support for the commission.

(b) Funding for the administrative and operational expenses of the commission shall be provided by appropriation to the agency for that purpose.

Sec. 39.506. RECOMMENDATIONS. The commission shall develop recommendations under this subchapter to address:

(1) the purpose of a state accountability system and the role of student assessment in that system;

(2) opportunities to assess students that:

(A) provide actionable information for a parent or person standing in parental relation to a student, an educator, and the public;

(B) support learning activities;

(C) recognize application of skills and knowledge;

(D) measure student educational growth toward mastery;

and

(E) value critical thinking;

(3) alignment of state performance standards with college and career readiness requirements in collaboration with the Texas Workforce Commission and Texas Higher Education Coordinating Board;

(4) policy changes necessary to enable a student to progress through subject matter and grade levels on demonstration of mastery; and

(5) policy changes necessary to establish a student assessment and public school accountability system that meets state goals, is community based, promotes parent and community involvement, and reflects the unique needs of each community.

Sec. 39.507. REPORT. (a) The commission shall prepare and deliver a report to the governor and the legislature that recommends statutory changes to improve systems of student assessment and public school accountability not later than September 1, 2016.

(b) In preparing the report, the commission shall consider the recommendations of the Texas High Performance Schools Consortium

established under Section 7.0561, including recommendations related to innovative, next-generation learning standards and assessment and accountability systems.

Sec. 39.508. PUBLIC MEETINGS AND PUBLIC INFORMATION. (a) The commission may hold public meetings as needed to fulfill its duties under this subchapter.

(b) The commission is subject to Chapters 551 and 552, Government Code.

Sec. 39.509. COMMISSION ABOLISHED; EXPIRATION OF SUBCHAPTER.

(a) The commission is abolished January 1, 2017.

(b) This subchapter expires January 1, 2017.