

ATTACHMENT II
Text of Adopted Amendments to 19 TAC

Chapter 101. Assessment

Subchapter AA. Commissioner's Rules Concerning the Participation of Limited English Proficient Students in State Assessments

§101.1007. Limited English Proficient Students at Grades Other Than the Exit Level.

- (a) In Grades 3-6, the language proficiency assessment committee (LPAC) shall determine whether a limited English proficient (LEP) student is administered the assessment of academic skills in English or in Spanish. A LEP student may be administered a Spanish version of the assessment of academic skills for a maximum of three years. If the LEP student is an immigrant, the number of LEP exemptions and administrations of the assessment in Spanish must not exceed three.
- (b) In accordance with paragraphs (1)-(4) of this subsection, certain immigrant LEP students who have had inadequate schooling outside the U.S. may be eligible for an exemption from the assessment of academic skills during a period not to exceed their first three school years of enrollment in U.S. schools. The term "immigrant" in this subchapter is defined as a student who has resided outside the 50 U.S. states for at least two consecutive years.
 - (1) In Grades 2-12, an ~~An~~ immigrant LEP student who achieves a rating of advanced high on the state-administered ~~[reading proficiency tests in]~~ English language proficiency assessment in reading during the student's first school year of enrollment in U.S. schools is not eligible for an exemption in the second or third school year of enrollment in U.S. schools. An immigrant LEP student who achieves a rating of advanced or advanced high on this assessment during the student's second school year of enrollment in U.S. schools is not eligible for an exemption in the third school year of enrollment in U.S. schools.
 - (2) During the first school year of enrollment in U.S. schools, the immigrant student may be granted a LEP exemption if the LPAC determines that the student has not had the schooling outside the U.S. necessary to provide the foundation of learning that Texas schools require and measure on the assessment, whether the foundation be in knowledge of the English language or specific academic skills and concepts in the subjects assessed.
 - (3) During the second and third school year of enrollment in U.S. schools, the immigrant student whose schooling outside the U.S. was inadequate and for whom a primary language assessment is not available may be granted a LEP exemption if the LPAC determines that the student lacks the academic language proficiency in English necessary for an assessment of academic skills in English to measure the student's academic progress in a valid, reliable manner.
 - (4) During the second and third school year of enrollment in U.S. schools, the immigrant student whose schooling outside the U.S. was inadequate and for whom a Spanish-version assessment is available is not eligible for a LEP exemption and must take the assessment in either English or Spanish unless:
 - (A) the student is in an English as a second language (ESL) program, which does not call for instruction in Spanish, and the LPAC determines that the student lacks the language proficiency in English and the academic instruction in Spanish and/or literacy in Spanish for the assessment in either English or Spanish to measure the student's academic progress in a valid, reliable manner; or
 - (B) the student is in a bilingual education program and the LPAC has documentation, including signed verification by the parent or guardian whenever possible, that there was an extensive period of time outside the U.S. in which the student did not attend school and that this absence of schooling resulted in such limited academic achievement and/or literacy that assessment in either English or Spanish is inappropriate as a measure for

school accountability. The term "extensive period of time outside the U.S.," as used in this subparagraph, shall be defined in the test administration materials.

- (c) Students exempted under subsection (b) of this section shall be administered assessments in subjects and grades required by federal law and regulations as delineated in the test administration materials. Exempt students assessed only for federal accountability purposes shall not be subject to the grade advancement requirements under the Student Success Initiative.
- (d) A LEP student whose parent or guardian has declined the services required by the Texas Education Code, Chapter 29, Subchapter B, is not eligible for an exemption under subsection (b) of this section. The student shall take the assessments of academic skills in English and the English language proficiency assessments required by §101.1001 of this title (relating to English Language Proficiency Assessments).
- (e) School districts may administer the assessment of academic skills in Spanish to a student who is not identified as limited English proficient but who participates in a two-way bilingual program if the LPAC determines the assessment in Spanish to be the most appropriate measure of the student's academic progress. However, the student may not be administered the Spanish-version assessment for longer than three years.

§101.1009. Limited English Proficient Students Who Receive Special Education Services.

- (a) The provisions of this subchapter apply to limited English proficient (LEP) students who receive special education services except as otherwise specified in this section.
- (b) The admission, review, and dismissal (ARD) committee in conjunction with the language proficiency assessment committee (LPAC) shall make decisions [Decisions] regarding the selection of assessments and appropriate accommodations for LEP students who receive special education services [shall be made by the admission, review, and dismissal (ARD) committee, which includes a language proficiency assessment committee (LPAC) member to ensure that issues related to the student's language proficiency are duly considered] .
- (c) A LEP student who receives special education services may be exempted from the English language proficiency assessments required by §101.1001 of this title (relating to English Language Proficiency Assessments) only if the ARD committee in conjunction with the [and] LPAC determines [determine] [determines] that these assessments cannot provide a meaningful measure of the student's annual growth in English language proficiency for reasons associated with the student's disability.
- (d) The provisions of §101.1007(b) and (c) of this title (relating to Limited English Proficient Students at Grades Other Than the Exit Level) apply to the state's general and alternate assessments [assessment] of academic skills [and the state developed alternative assessment of academic skills] .
- (e) A LEP student who receives special education services and whose parent or guardian has declined the services required by the Texas Education Code, Chapter 29, Subchapter B, is not eligible for an exemption on the basis of limited English proficiency.