

ATTACHMENT II  
Text of Adopted Amendment to 19 TAC

**Chapter 89. Adaptations for Special Populations**

**Subchapter AA. Commissioner's Rules Concerning Special Education Services**

**Division 2. Clarification of Provisions in Federal Regulations and State Law**

**§89.1070. Graduation Requirements.**

- (a) Graduation with a regular high school diploma under subsection (b) (1), (2), or (4) ~~(or (d))~~ of this section terminates a student's eligibility for special education services under this subchapter and Part B of the Individuals with Disabilities Education Act (IDEA), 20 United States Code, §§1400 et seq. In addition, as provided in Texas Education Code (TEC), §42.003(a), graduation with a regular high school diploma under subsection (b) (1), (2), or (4) ~~(or (d))~~ of this section terminates a student's entitlement to the benefits of the Foundation School Program.
- (b) A student receiving special education services may graduate and be awarded a regular high school diploma if the student meets one of the following conditions. [z]
- (1) The ~~the~~ student has satisfactorily completed the state's or district's (whichever is greater) required standards in Chapters 110-128 and Chapter 130 of this title ~~minimum curriculum~~ and credit requirements for graduation (under the recommended or distinguished achievement high school programs in Chapter 74 of this title (relating to Curriculum Requirements)) applicable to students in general education, including satisfactory performance as established in the TEC, Chapter 39, on the required state assessments. ~~exit level assessment instrument; or~~
- (2) The ~~the~~ student has satisfactorily completed the state's or district's (whichever is greater) required standards in Chapters 110-128 and Chapter 130 of this title ~~minimum curriculum~~ and credit requirements for graduation (under the minimum high school program in Chapter 74 of this title) applicable to students in general education, including participation in required state assessments. The student's admission, review, and dismissal (ARD) committee will ~~shall~~ determine whether satisfactory performance on the ~~a~~ required state assessments is necessary ~~assessment shall also be required~~ for graduation.
- (3) The student has satisfactorily completed the state's or district's (whichever is greater) required standards in Chapters 110-128 and Chapter 130 of this title through courses, one or more of which contain modified content that is aligned to the standards required under the minimum high school program in Chapter 74 of this title as well as the credit requirements under the minimum high school program, including participation in required state assessments. The student's ARD committee will determine whether satisfactory performance on the required state assessments is necessary for graduation. The student graduating under this subsection must also successfully complete the student's individualized education program (IEP) and meet one of the following conditions, consistent with the IEP:
- (A) full-time employment, based on the student's abilities and local employment opportunities, in addition to sufficient self-help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;
- (B) demonstrated mastery of specific employability skills and self-help skills which do not require direct ongoing educational support of the local school district; or
- (C) access to services which are not within the legal responsibility of public education or employment or educational options for which the student has been prepared by the academic program.
- (4) The student no longer meets age eligibility requirements and has completed the requirements specified in the IEP.

~~[(c) — A student receiving special education services may also graduate and receive a regular high school diploma when the student's ARD committee has determined that the student has successfully completed:]~~

~~[(1) — the student's individualized education program (IEP);]~~

~~[(2) — one of the following conditions, consistent with the student's IEP:]~~

~~[(A) — full time employment, based on the student's abilities and local employment opportunities, in addition to sufficient self help skills to enable the student to maintain the employment without direct and ongoing educational support of the local school district;]~~

~~[(B) — demonstrated mastery of specific employability skills and self help skills which do not require direct ongoing educational support of the local school district; or]~~

~~[(C) — access to services which are not within the legal responsibility of public education, or employment or educational options for which the student has been prepared by the academic program;]~~

~~[(3) — the state's or district's (whichever is greater) minimum credit requirements for students without disabilities; and]~~

~~[(4) — the state's or district's minimum curriculum requirements to the extent possible with modifications/substitutions only when it is determined necessary by the ARD committee for the student to receive an appropriate education.]~~

~~[(d) — A student receiving special education services may also graduate and receive a regular high school diploma upon the ARD committee determining that the student no longer meets age eligibility requirements and has completed the requirements specified in the IEP.]~~

(c) ~~[(e)]~~ All students graduating under this section shall be provided with a summary of academic achievement and functional performance as described in 34 Code of Federal Regulations (CFR), §300.305(e)(3). This summary shall consider, as appropriate, the views of the parent and student and written recommendations from adult service agencies on how to assist the student in meeting postsecondary goals. An evaluation as required by 34 CFR, §300.305(e)(1), shall be included as part of the summary for a student graduating under subsection ~~(b)(3)~~ ~~[(e)]~~ of this section.

(d) ~~[(f)]~~ Students who participate in graduation ceremonies but who are not graduating under subsection ~~(b)(3)~~ ~~[(e)]~~ of this section and who will remain in school to complete their education do not have to be evaluated in accordance with subsection ~~(c)~~ ~~[(e)]~~ of this section.

(e) ~~[(g)]~~ Employability and self-help skills referenced under subsection ~~(b)(3)~~ ~~[(e)]~~ of this section are those skills directly related to the preparation of students for employment, including general skills necessary to obtain or retain employment.

(f) ~~[(h)]~~ For students who receive a diploma according to subsection ~~(b)(3)~~ ~~[(e)]~~ of this section, the ARD committee shall determine needed educational services upon the request of the student or parent to resume services, as long as the student meets the age eligibility requirements.