

The Texas Education Agency (TEA) proposes an amendment to §101.4003, concerning Texas assessment of knowledge and skills exit-level alternate assessments. The proposed amendment would update the performance standards for former students whose assessment graduation requirement was the Texas Assessment of Knowledge and Skills (TAKS) based on the redesign of the State of Texas Assessment of Academic Readiness (STAAR®).

BACKGROUND INFORMATION AND JUSTIFICATION: Section 101.4003 specifies the assessments and corresponding passing scores allowed as alternate assessments for certain former students whose assessment graduation requirement was TAKS. As required in Texas Education Code (TEC), §39.025, some of the alternate assessments former students may use to satisfy graduation assessment requirements in place of TAKS exit-level assessments are the STAAR® end-of-course (EOC) assessments.

In 2023, STAAR® was redesigned as required by House Bill (HB) 3906, 86th Texas Legislature, 2019, and HB 3261, 87th Texas Legislature, Regular Session, 2021. Based on the required redesign, STAAR® performance standards were re-evaluated and updated.

The proposed amendment would update Figure: 19 TAC §101.4003(a) to align the performance standards for former students whose assessment graduation requirements was TAKS with the updated performance standards for the STAAR® EOC assessments. The performance standards in Figure: 19 TAC §101.4003(a) for STAAR® Algebra I, English II, Biology, and U.S. History EOC assessments would be amended to ensure they reflect an equivalent level of rigor as the performance standards that were in place for the TAKS exit-level assessments.

FISCAL IMPACT: Iris Tian, deputy commissioner of analytics, assessment, and reporting, has determined that for the first five-year period the proposal is in effect, there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

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 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 expand, 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. Tian 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 to provide school districts, open-enrollment charter schools, and former TAKS examinees with updated performance standards for alternate assessments to meet graduation requirements and earn a high school diploma.

DATA AND REPORTING IMPACT: The proposal would have no data and reporting impact.

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 February 16, 2024, and ends March 18, 2024. 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 February 16, 2024. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §28.02541, which requires the commissioner by rule to establish a procedure to determine whether certain former students, who have met curriculum requirements for graduation but have not performed satisfactorily on an assessment instrument, may qualify to graduate and receive a high school diploma; and TEC, §39.025, which establishes the secondary-level performance required to receive a Texas high school diploma, establishes alternate assessment options for students who entered Grade 9 prior to the 2011-2012 school year or Grade 10 or above in the 2011-2012 school year, and requires the commissioner to establish satisfactory performance levels on the alternate assessments.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §28.02541 and §39.025.

<rule>

§101.4003. Texas Assessment of Knowledge and Skills Exit-Level Alternate Assessments.

- (a) In accordance with the Texas Education Code (TEC), Chapter 39, Subchapter B, the commissioner of education adopts certain assessments as provided in the figure in this subsection as alternate assessments that a person may use in place of corresponding Texas Assessment of Knowledge and Skills (TAKS) exit-level assessments beginning in the fall of 2017.

Figure: 19 TAC §101.4003(a) [~~Figure: 19 TAC §101.4003(a)~~]

- (b) An eligible person who has met the passing standard on a state-approved alternate exit-level assessment as set by the commissioner and provided in the figure in subsection (a) of this section in a particular subject area has satisfied the exit-level testing requirement in that subject area.
- (c) A person is eligible to substitute an alternate exit-level assessment for a TAKS exit-level assessment for purposes of this subchapter if the person was first enrolled in Grade 9 prior to the 2011-2012 school year or first enrolled in Grade 10 or above in the 2011-2012 school year.