

WHAT IS THE ISSUE?

The TEA is proposing to require students to take the STAAR EOC at least one time before using a substitute assessment. This is not in the law and is not needed to address federal accountability concerns.

WHY IS THIS IMPORTANT?

*Assessment policy is the business of the legislature. The federal government does not require EOCs for high school graduation. The Texas legislature has determined that students with good scores on national assessments should be able to use those **in place of the STAAR EOC scores** to satisfy state graduation requirements. The TEA is proposing to limit that ability by refusing to allow passing – even perfect – national assessment scores count unless the student first attempts the STAAR EOC. Anytime an agency thinks it has the power to override the law passed by our elected representative, it is important and we all should be concerned.*

WHY ARE THEY DOING THIS?

Because the US Dept. of Education requires the state to assess kids three times during high school as part of their accountability plan. Since the scoring rubric is not the same on STAAR EOC and the national assessment, the feds will not let TEA count substitute assessments for accountability purposes. The TEA is messing with graduation requirements because they want every kid to take the STAAR for the federal government.

WHY DON'T THEY JUST REQUIRE THE KIDS TO TAKE THE EOC BUT NOT LIMIT THE GRADUATION OPTIONS THE LEGISLATURE CREATED?

*The odd thing is, that is also in this rule. So we should ask what the real motive is for trying to make graduation by substitute assessment more difficult. The bottom line is that this rule on substitute assessment for graduation is **absolutely not** required for accountability reasons.*

WHAT CAN I DO?

*The TEA is accepting comments on this rule until November 12th. They can be made using an online form or by mail. Details and talking points are attached. If we want to have an impact, **we must FLOOD them with opposition**. Emphasize that part (c)(1) of this rule is absolutely not needed, because part (e) already requires the assessment for accountability purposes.*

THEN WHAT?

Send us a copy of your submission to txedrights@gmail.com! Copy House Public Education vice-chair Diego Bernal at diego.bernal@house.texas.gov and Kirk Watson in the Senate: kirk.watson@senate.texas.gov. If you send your comment on or before October 25, add these words at the end: "I request a public hearing."

**Notes regarding Proposed Changes to 19 TAC §101.4002, State of Texas
Assessments of Academic Readiness End-of-Course Substitute Assessments**

Web Address for Public Comment: <https://form.jotform.com/81206305801142>

Mailing Address for Public Comment:

Cristina De La Fuente-Valadez
Rulemaking
Texas Education Agency
1701 North Congress Avenue
Austin, Texas 78701

Public Comment Period: October 11, 2019 - November 12, 2019

Proposed Effective Date: January 26, 2020

Deadline to Request a Public Hearing: October 25, 2019

Points about the proposed rule:

We object to part (c)(1) of the rule which states: (c) A student at any grade level is eligible to use a substitute assessment as provided in the chart in subsection (b) of this section if: (1) a student has not been successful on the corresponding EOC assessment after taking the assessment at least once.

This portion of the rule adds requirements for use of substitute assessments that are not contained in the statute and that are not necessary to address accountability concerns.

We object on the following bases:

- (a) It is not necessary for federal accountability purposes. The assessment requirement for federal purposes is addressed in section (e) of the proposed rule;
- (b) It improperly adds restrictions to the use of substitute assessments not provided by the legislature;
- (c) It leads to the absurd result that a student who made a perfect score on the SAT English could be denied graduation for the sole reason that he did not sit for an English 2 EOC that he had no score requirement to meet for graduation;
- (d) The improper conflation of graduation and federal accountability permits federal intrusion into the carefully crafted scheme for graduation created by the legislature;
- (e) This fundamental alteration to the use of substitute assessments for graduation is the province of the legislature and should have been submitted to them in session as this issue was known before the 2019 session ever began.

The rule is not required to meet Federal Accountability. The Federal government does not care about whether Texas has an exit level assessment, or a series of them. The Federal government only cares about the assessment of students for accountability reasons.

Thus, Texas is not required to put any conditions on the use of substitute assessments for graduation. It need only assure that students who use substitute assessments also take the STAAR EOC for that course.

The proposed rule already contains that requirement in section (e) when it states: “A student electing to substitute an assessment for graduation purposes must still take the corresponding EOC assessment required under the TEC, §39.023(c), at least once for federal accountability purposes.” This section by itself establishes the authority and the need to assess the student for federal purposes.

The legislature has provided certain instances where EOC attempts are necessary to use a substitute assessment. For instance, it has required two attempts on the relevant EOC before the TSI scores may be substituted. No such restriction exists on any other assessment or for any other substitute, some of which are expressly named in statute. The language relating to substituting TSI scores demonstrates that the legislature clearly knows how to write a requirement for prior attempts. The omission of such a requirement for all other assessments demonstrate an intention not to place such a burden on the use of substitute assessments.

The legislature has likewise specifically provided certain instances where a student who fails to meet a qualifying score on a substitute assessment may either attempt the substitute again or take the EOC. This rule destroys the option that the legislature has created.

This rule essentially sacrifices the future of talented Texas students for the purposes of providing mere data to the federal government. The requirement of assessment for federal accountability it already contained in the rule. The improper conflation of that requirement and graduation is purely punitive and unrelated to the college or career readiness of the student. The commissioner in essence proposes a rule that says “We know you have met all the performance standards for graduation, but we choose to deny you a diploma because you did not take a test that you did not need to pass to graduate.”

The commissioner and the agency provide no data demonstrating that the use of substitute assessments puts the state out of compliance with the federal government, or that this rule would address any such issue if one exists. There is no rationale why section (c)(1) is necessary in light of section (e). Where is the data? How many kids refused EOCS because of substitute assessment? How many schools or districts were under 95% participation? We know the state met standards. Why is this rule even needed?

A simple comment:

I am a (parent/teacher/concerned voter). I write in opposition to the Proposed Changes to 19 TAC §101.4002, especially part (c)(1). There is no need to restrict the use of substitute assessments for graduation in order to meet accountability requirements. Part (e) of the proposed rule already accomplishes that purpose. As written, this rule is infringing on the legislature's role as policymaker. Please strike part (c)(1) from the proposed rule. No student who has met Texas credit and assessment graduation requirements should ever be denied a diploma from his school!