

By: Pacheco

H.B. No. 3046

A BILL TO BE ENTITLED

AN ACT

relating to eliminating the requirement to use public school assessment instruments as a criterion for promotion or graduation.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

SECTION 1. Section 18.005(c), Education Code, is amended to read as follows:

(c) A Job Corps diploma program shall:

(1) develop educational programs specifically designed for persons eligible for enrollment in a Job Corps training program established by the United States Department of Labor;

(2) coordinate educational programs and services in the diploma program with programs and services provided by the United States Department of Labor and other federal and state agencies and local political subdivisions and by persons who provide programs and services under contract with the United States Department of Labor;

(3) provide a course of instruction that includes the required curriculum under Subchapter A, Chapter 28; and

~~(4) [require that students enrolled in the diploma program satisfy the requirements of Section 39.025 before receiving a diploma under this chapter, and~~

~~(5)]~~ comply with a requirement imposed under this title or a rule adopted under this title relating to the Public

Education Information Management System (PEIMS) to the extent necessary to determine compliance with this chapter, as determined by the commissioner.

SECTION 2. Section 19.0043(b), Education Code, is amended to read as follows:

(b) A student may graduate and receive a diploma from a Windham School District educational program if:

(1) the student successfully completes the curriculum requirements identified by the State Board of Education under Section 28.025(a) ~~[and complies with Section 39.025]~~; or

(2) the student successfully completes the curriculum requirements under Section 28.025(a) as modified by an individualized education program developed under Section 29.005.

SECTION 3. Section 25.005(b), Education Code, is amended to read as follows:

(b) A reciprocity agreement must:

(1) address procedures for:

(A) transferring student records; and

(B) awarding credit for completed course work;

and

~~[(C) permitting a student to satisfy the requirements of Section 39.025 through successful performance on comparable end-of-course or other exit-level assessment instruments administered in another state, and]~~

(2) include appropriate criteria developed by the agency.

SECTION 4. Section 28.021, Education Code, is amended by

adding Subsection (a-1) and amending Subsection (c) to read as follows:

(a-1) A student demonstrates proficiency of the subject matter of a course or grade level for purposes of promotion if the student performs satisfactorily on an assessment instrument administered for the subject matter of the course or grade level regardless of whether the student received a passing score in the subject matter of the course or grade level.

(c) In determining promotion under Subsection (a), a school district shall consider:

- (1) the recommendation of the student's teacher;
- (2) the student's grade in each subject or course; and
- (3) ~~[the student's score on an assessment instrument administered under Section 39.023(a), (b), or (l), to the extent applicable; and~~
- ~~[(4)]~~ any other necessary academic information, as determined by the district.

SECTION 5. The heading to Section 28.0211, Education Code, is amended to read as follows:

Sec. 28.0211. ~~[SATISFACTORY PERFORMANCE ON ASSESSMENT INSTRUMENTS REQUIRED.]~~ ACCELERATED INSTRUCTION.

SECTION 6. Sections 28.0211(a-1), (c), (d), (i), and (k), Education Code, are amended to read as follows:

(a-1) Each time a student fails to perform satisfactorily on an assessment instrument administered under Section 39.023(a) ~~[in the third, fourth, fifth, sixth, seventh, or eighth grade]~~, the school district in which the student attends school shall provide

1 to the student accelerated instruction in the applicable subject
2 area. Accelerated instruction may require participation of the
3 student before or after normal school hours and may include
4 participation at times of the year outside normal school
5 operations.

6 (c) ~~[Each time a student fails to perform satisfactorily on~~
7 ~~an assessment instrument specified under Subsection (a), the school~~
8 ~~district in which the student attends school shall provide to the~~
9 ~~student accelerated instruction in the applicable subject area,~~
10 ~~including reading instruction for a student who fails to perform~~
11 ~~satisfactorily on a reading assessment instrument. After a student~~
12 ~~fails to perform satisfactorily on an assessment instrument a~~
13 ~~second time, a grade placement committee shall be established to~~
14 ~~prescribe the accelerated instruction the district shall provide to~~
15 ~~the student before the student is administered the assessment~~
16 ~~instrument the third time. The grade placement committee shall be~~
17 ~~composed of the principal or the principal's designee, the~~
18 ~~student's parent or guardian, and the teacher of the subject of an~~
19 ~~assessment instrument on which the student failed to perform~~
20 ~~satisfactorily. The district shall notify the parent or guardian~~
21 ~~of the time and place for convening the grade placement committee~~
22 ~~and the purpose of the committee.]~~ An accelerated instruction
23 group administered by a school district under this section may not
24 have a ratio of more than 10 students for each teacher.

25 (d) In addition to providing accelerated instruction to a
26 student under Subsection (a-1) ~~[(c)]~~, the district shall notify the
27 student's parent or guardian of:

1 (1) the student's failure to perform satisfactorily on
2 the assessment instrument; and

3 (2) the accelerated instruction program to which the
4 student is assigned[~~, and~~

5 ~~[(3) the possibility that the student might be~~
6 ~~retained at the same grade level for the next school year].~~

7 (i) The admission, review, and dismissal committee of a
8 student who participates in a district's special education program
9 under Subchapter A, Chapter 29, and who does not perform
10 satisfactorily on an assessment instrument [~~specified under~~
11 ~~Subsection (a) and~~] administered under Section 39.023(a) or (b)
12 must meet before the student is administered the assessment
13 instrument for the second time. The committee shall determine[~~, and~~

14 ~~[(1)]~~ the manner in which the student will participate
15 in an accelerated instruction program under this section[~~, and~~

16 ~~[(2) whether the student will be promoted in~~
17 ~~accordance with Subsection (i-1) or retained under this section].~~

18 (k) The commissioner shall adopt rules as necessary to
19 implement this section[~~, including rules concerning when school~~
20 ~~districts shall administer assessment instruments required under~~
21 ~~this section and which administration of the assessment instruments~~
22 ~~will be used for purposes of Section 39.054].~~

23 SECTION 7. Section 28.025, Education Code, is amended by
24 amending Subsections (b-7), (c), and (e) and adding Subsection
25 (c-8) to read as follows:

26 (b-7) The State Board of Education, in coordination with the
27 Texas Higher Education Coordinating Board, shall adopt rules to

1 ensure that a student may comply with the curriculum requirements
 2 under the foundation high school program or for an endorsement
 3 under Subsection (c-1) by successfully completing appropriate
 4 courses in the core curriculum of an institution of higher
 5 education under Section 61.822. Notwithstanding Subsection (b-15)
 6 or (c) ~~[of this section, Section 39.025,]~~ or any other provision of
 7 this code and notwithstanding any school district policy, a student
 8 who has completed the core curriculum of an institution of higher
 9 education under Section 61.822, as certified by the institution in
 10 accordance with commissioner rule, is considered to have earned a
 11 distinguished level of achievement under the foundation high school
 12 program and is entitled to receive a high school diploma from the
 13 appropriate high school as that high school is determined in
 14 accordance with commissioner rule. A student who is considered to
 15 have earned a distinguished level of achievement under the
 16 foundation high school program under this subsection may apply for
 17 admission to an institution of higher education for the first
 18 semester or other academic term after the semester or other
 19 academic term in which the student completes the core curriculum.

20 (c) A person may receive a diploma if the person is eligible
 21 for a diploma under Section 28.0251. In other cases, a student may
 22 graduate and receive a diploma only if:

23 (1) the student successfully completes the curriculum
 24 requirements identified by the State Board of Education under
 25 Subsection (a) ~~[and complies with Section 39.025]~~; or

26 (2) the student successfully completes an
 27 individualized education program developed under Section 29.005.

1 (c-8) For purposes of Subsection (c)(1), a student
2 successfully completes curriculum requirements identified by the
3 State Board of Education if the student performs satisfactorily on
4 an end-of-course assessment instrument administered for the course
5 regardless of whether the student received a passing score in the
6 course.

7 (e) Each school district shall report the academic
8 achievement record of students who have completed the foundation
9 high school program on transcript forms adopted by the State Board
10 of Education. ~~[The transcript forms adopted by the board must be~~
11 ~~designed to clearly identify whether a student received a diploma~~
12 ~~or a certificate of coursework completion.]~~

13 SECTION 8. Section 28.0255(g), Education Code, is amended
14 to read as follows:

15 (g) A student is entitled to a high school diploma if the
16 student[÷

17 ~~[(1)]~~ successfully complies with the curriculum
18 requirements specified under Subsection (e)[÷ and

19 ~~[(2) performs satisfactorily, as determined by the~~
20 ~~commissioner under Subsection (h), on end-of-course assessment~~
21 ~~instruments listed under Section 39.023(c) for courses in which the~~
22 ~~student was enrolled].~~

23 SECTION 9. Section 29.081(b-1), Education Code, is amended
24 to read as follows:

25 (b-1) Each school district shall offer before the next
26 scheduled administration of the assessment instrument, without
27 cost to the student, additional accelerated instruction to each

1 student in any subject in which the student failed to perform
2 satisfactorily on an end-of-course assessment instrument listed in
3 Section 39.023(c) [~~required for graduation~~].

4 SECTION 10. Section 29.259(g), Education Code, is amended
5 to read as follows:

6 (g) A person who is at least 19 years of age and not more
7 than 50 years of age is eligible to enroll in the adult education
8 program under this section if the person has not earned a high
9 school equivalency certificate and:

10 (1) has failed to complete the curriculum requirements
11 for high school graduation; or

12 (2) has failed to perform satisfactorily on an
13 assessment instrument that, before the 2019-2020 school year, was
14 required for high school graduation.

15 SECTION 11. Section 29.402(c), Education Code, is amended
16 to read as follows:

17 (c) A public junior college under this section shall:

18 (1) design a dropout recovery curriculum that includes
19 career and technology education courses that lead to industry or
20 career certification;

21 (2) integrate into the dropout recovery curriculum
22 research-based strategies to assist students in becoming able
23 academically to pursue postsecondary education, including:

24 (A) high quality, college readiness instruction
25 with strong academic and social supports;

26 (B) secondary to postsecondary bridging that
27 builds college readiness skills, provides a plan for college

1 completion, and ensures transition counseling; and

2 (C) information concerning appropriate supports
3 available in the first year of postsecondary enrollment to ensure
4 postsecondary persistence and success, to the extent funds are
5 available for the purpose;

6 (3) offer advanced academic and transition
7 opportunities, including dual credit courses and college
8 preparatory courses, such as advanced placement courses; and

9 (4) coordinate with each partnering school district to
10 provide in the articulation agreement that the district retains
11 accountability for student attendance and~~[,]~~ student completion of
12 high school course requirements~~[, and student performance on~~
13 ~~assessment instruments]~~ as necessary for the student to receive a
14 diploma from a high school of the partnering school district.

15 SECTION 12. Section 30.021(e), Education Code, is amended
16 to read as follows:

17 (e) The school shall cooperate with public and private
18 agencies and organizations serving students and other persons with
19 visual impairments in the planning, development, and
20 implementation of effective educational and rehabilitative service
21 delivery systems associated with educating students with visual
22 impairments. To maximize and make efficient use of state
23 facilities, funding, and resources, the services provided in this
24 area may include conducting a cooperative program with other
25 agencies to serve students who have graduated from high school by
26 completing all academic requirements applicable to students in
27 regular education~~[, excluding satisfactory performance under~~

1 ~~Section 39.025,~~] who are younger than 22 years of age on September 1
2 of the school year and who have identified needs related to
3 vocational training, independent living skills, orientation and
4 mobility, social and leisure skills, compensatory skills, or
5 remedial academic skills.

6 SECTION 13. Section 30.104(b), Education Code, is amended
7 to read as follows:

8 (b) A student may graduate and receive a diploma from a
9 department educational program if:

10 (1) the student successfully completes the curriculum
11 requirements identified by the State Board of Education under
12 Section 28.025(a) ~~[and complies with Section 39.025]~~; or

13 (2) the student successfully completes the curriculum
14 requirements under Section 28.025(a) as modified by an
15 individualized education program developed under Section 29.005.

16 SECTION 14. Section 32.258(b), Education Code, is amended
17 to read as follows:

18 (b) The system established under Subsection (a) shall
19 provide a means for a student or the student's parent or other
20 person standing in parental relation ~~[relationship]~~ to track the
21 student's progress on end-of-course assessment instruments
22 administered under Section 39.023(c) ~~[instrument requirements for~~
23 ~~graduation]~~.

24 SECTION 15. Section 39.023(c-2), Education Code, is amended
25 to read as follows:

26 (c-2) The agency may adopt end-of-course assessment
27 instruments for courses not listed in Subsection (c). A student's

1 performance on an end-of-course assessment instrument adopted
2 under this subsection is not subject to any ~~[the]~~ performance
3 requirements ~~[established under Subsection (c) or Section 39.025]~~.

4 SECTION 16. The heading to Section 39.025, Education Code,
5 is amended to read as follows:

6 Sec. 39.025. USE OF END-OF-COURSE ASSESSMENT INSTRUMENT
7 ~~[SECONDARY-LEVEL PERFORMANCE REQUIRED]~~.

8 SECTION 17. Section 39.025(a), Education Code, is amended
9 to read as follows:

10 (a) The commissioner shall adopt rules requiring a student
11 in the foundation high school program under Section 28.025 to be
12 administered an end-of-course assessment instrument listed in
13 Section 39.023(c) only for a course in which the student is enrolled
14 and for which an end-of-course assessment instrument is
15 administered. Each student's performance on an end-of-course
16 assessment instrument shall be evaluated to determine whether the
17 [A] student achieved [is required to achieve] a scale score that
18 indicates satisfactory performance, as determined by the
19 commissioner under Section 39.0241(a) [, on each end-of-course
20 assessment instrument administered to the student]. The results of
21 the administration of an end-of-course assessment instrument
22 required under this subsection may not be used as criteria for
23 graduation. The results may be used only for the purpose of
24 diagnosing the academic strengths and deficiencies of a student and
25 guiding specific instruction to the student. [For each scale score
26 required under this subsection that is not based on a 100-point
27 scale scoring system, the commissioner shall provide for

1 ~~conversion, in accordance with commissioner rule, of the scale~~
2 ~~score to an equivalent score based on a 100-point scale scoring~~
3 ~~system. A student may not receive a high school diploma until the~~
4 ~~student has performed satisfactorily on end-of-course assessment~~
5 ~~instruments in the manner provided under this subsection. This~~
6 ~~subsection does not require a student to demonstrate readiness to~~
7 ~~enroll in an institution of higher education.]~~

8 SECTION 18. Section 39.034(d), Education Code, is amended
9 to read as follows:

10 (d) The agency shall determine the necessary annual
11 improvement required each year for a student to be prepared to
12 perform satisfactorily on, as applicable:

- 13 (1) the grade five assessment instruments;
14 (2) the grade eight assessment instruments; and
15 (3) the end-of-course assessment instruments listed
16 in Section 39.023(c) ~~[required under this subchapter for~~
17 ~~graduation]~~.

18 SECTION 19. Section 39.053(c), Education Code, as amended
19 by Chapters 807 (H.B. 22), 842 (H.B. 2223), and 1088 (H.B. 3593),
20 Acts of the 85th Legislature, Regular Session, 2017, is reenacted
21 and amended to read as follows:

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

25 (1) in the student achievement domain, indicators of
26 student achievement that must include:

- 27 (A) for evaluating the performance of districts

and campuses generally:

(i) an indicator that accounts for the results of assessment instruments required under Sections 39.023(a), (c), and (l), as applicable for the district and campus, ~~[including the results of assessment instruments required for graduation retaken by a student,]~~ aggregated across grade levels by subject area, including:

(a) 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

(b) 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

(ii) an indicator that accounts for the results of assessment instruments required under Section 39.023(b), as applicable for the district and campus, 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; and

(B) for evaluating the performance of high school campuses and districts that include high school campuses, indicators that account for:

1 (i) students who satisfy the Texas Success
2 Initiative (TSI) college readiness benchmarks prescribed by the
3 Texas Higher Education Coordinating Board under Section 51.334 on
4 an assessment instrument in reading or mathematics designated by
5 the coordinating board under that section;

6 (ii) students who satisfy relevant
7 performance standards on advanced placement tests or similar
8 assessments;

9 (iii) students who earn dual course credits
10 in the dual credit courses;

11 (iv) students who enlist in the armed
12 forces of the United States;

13 (v) students who earn industry
14 certifications;

15 (vi) students admitted into postsecondary
16 industry certification programs that require as a prerequisite for
17 entrance successful performance at the secondary level;

18 (vii) students whose successful completion
19 of a course or courses under Section 28.014 indicates the student's
20 preparation to enroll and succeed, without remediation, in an
21 entry-level general education course for a baccalaureate degree or
22 associate degree;

23 (viii) students who successfully met
24 standards on a composite of indicators that through research
25 indicates the student's preparation to enroll and succeed, without
26 remediation, in an entry-level general education course for a
27 baccalaureate degree or associate degree;

(ix) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the Every Student Succeeds Act (20 U.S.C. Section 6301 et seq.) subject to the exclusions provided by Subsections (g), (g-1), (g-2), and (g-3);

(x) students who successfully completed an OnRamps dual enrollment course; ~~and~~

(xi) ~~[the percentage of]~~ students who successfully completed a practicum or internship approved by the State Board of Education; and

(xii) students who are awarded an associate ~~[associate's]~~ degree;

(2) in the school progress domain, indicators for effectiveness in promoting student learning, which must include:

(A) for assessment instruments, including assessment instruments under Subdivisions (1)(A)(i) and (ii), the percentage of students who met the standard for improvement, as determined by the commissioner; and

(B) for evaluating relative performance, the performance of districts and campuses compared to similar districts or campuses; and

(3) in the closing the gaps domain, the use of disaggregated data to demonstrate the differentials among students from different racial and ethnic groups, socioeconomic backgrounds, and other factors, including:

(A) students formerly receiving special education services;

(B) students continuously enrolled; and

(C) students who are mobile.

SECTION 20. Section 39.301(c), Education Code, is amended to read as follows:

(c) Indicators for reporting purposes must include:

(1) the percentage of graduating students who meet the course requirements established by State Board of Education rule for:

(A) the foundation high school program;

(B) the distinguished level of achievement under the foundation high school program; and

(C) each endorsement described by Section 28.025(c-1);

(2) the results of the SAT, ACT, and certified workforce training programs described by Chapter 311, Labor Code;

(3) for students who have failed to perform satisfactorily, under each performance standard under Section 39.0241, on an assessment instrument ~~[required]~~ under Section 39.023(a) or (c), the performance of those students on subsequent assessment instruments ~~[required]~~ under those sections, aggregated by grade level and subject area;

(4) for each campus, the number of students, disaggregated by major student subpopulations, that take courses under the foundation high school program and take additional courses to earn an endorsement under Section 28.025(c-1), disaggregated by type of endorsement;

(5) the percentage of students, aggregated by grade

1 level, provided accelerated instruction under Section [28.0211](#)
2 [~~28.0211(c), the results of assessment instruments administered~~
3 ~~under that section, the percentage of students promoted through the~~
4 ~~grade placement committee process under Section 28.0211~~], the
5 subject of the assessment instrument on which each student failed
6 to perform satisfactorily under each performance standard under
7 Section [39.0241](#), and the performance of those students in the
8 following school year [~~following that promotion~~] on the assessment
9 instruments [~~required~~] under Section [39.023](#);

10 (6) the percentage of students of limited English
11 proficiency exempted from the administration of an assessment
12 instrument under Sections [39.027](#)(a)(1) and (2);

13 (7) the percentage of students in a special education
14 program under Subchapter A, Chapter [29](#), assessed through assessment
15 instruments developed or adopted under Section [39.023](#)(b);

16 (8) the percentage of students who satisfy the college
17 readiness measure;

18 (9) the measure of progress toward dual language
19 proficiency under Section [39.034](#)(b), for students of limited
20 English proficiency, as defined by Section [29.052](#);

21 (10) the percentage of students who are not
22 educationally disadvantaged;

23 (11) the percentage of students who enroll and begin
24 instruction at an institution of higher education in the school
25 year following high school graduation; and

26 (12) the percentage of students who successfully
27 complete the first year of instruction at an institution of higher

1 education without needing a developmental education course.

2 SECTION 21. Effective September 1, 2019, the following
3 provisions of the Education Code are repealed:

4 (1) Section 19.0043(c);

5 (2) Sections 28.0211(a), (a-2), (b), (e), (f), (g),
6 (i-1), (i-2), (n), (o), and (p);

7 (3) Section 28.025(d);

8 (4) Section 28.0255(h);

9 (5) Section 30.104(c);

10 (6) Sections 39.025(a-1), (a-4), (b), (c), (c-1),
11 (c-2), (d), (e), (f), (f-1), (f-2), and (g); and

12 (7) Section 39.025(a-2), as added by Chapter 1036
13 (H.B. 1613), Acts of the 84th Legislature, Regular Session, 2015.

14 SECTION 22. To the extent of any conflict, this Act prevails
15 over another Act of the 86th Legislature, Regular Session, 2019,
16 relating to nonsubstantive additions to and corrections in enacted
17 codes.

18 SECTION 23. This Act applies beginning with the 2019-2020
19 school year.

20 SECTION 24. Except as otherwise provided by this Act, this
21 Act takes effect immediately if it receives a vote of two-thirds of
22 all the members elected to each house, as provided by Section 39,
23 Article III, Texas Constitution. If this Act does not receive the
24 vote necessary for immediate effect, this Act takes effect
25 September 1, 2019.