Sec. 1. STUDENT TESTING REQUIREMENTS

All Academy of Accelerated Learning Inc. (AAL), students receiving instruction in the essential knowledge and skills shall take the appropriate criterion-referenced assessments, as required by Texas Education Code, Chapter 39, Subchapter B.

19 Tex. Admin. Code § 101.5(a).

Unless exempted by applicable law, a student may not receive a high school diploma until the student has performed satisfactorily on applicable end-of-course ("EOC") assessment instruments.

Tex. Educ. Code § 39.025(a); 19 Tex. Admin. Code § 101.4001.

Sec. 2. EMERGENT BILINGUAL STUDENTS

The Texas Education Agency shall adopt rules for the administration of assessment instruments in Spanish to emergence bilingual students in grades three through five, whose primary language is Spanish and who are not otherwise exempt from the administration of an assessment instrument under Texas Education Code § 39.027(a)(1) or (2). Each emergent bilingual student whose primary language is Spanish, other than a student to whom Texas Education Code § 39.027(b) applies, may be assessed using assessment instruments in Spanish for up to three years or assessment instruments in English under Texas Education Code § 39.027(a). The language proficiency assessment committee established under Texas Education Code § 29.063 shall determine which students are administered assessment instruments in Spanish.

Tex. Educ. Code § 39.027(l).

Sec. 3. SPECIAL EDUCATION

The student's admission, review and dismissal ("ARD") committee shall determine whether, to receive a high school diploma, the student is required to achieve satisfactory performance on end-of-course assessment instruments.

Tex. Educ. Code § 39.025(a-4).

Sec. 4. MILITARY DEPENDENTS

If a student is a military dependent, AAL shall accept:

1. Exit or EOC exams required for graduation from the sending state;
2. National norm-referenced achievement tests; or
3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

In the event the above alternatives cannot be accommodated for a military dependent transferring in his or her senior year, then the provisions of Texas Education Code 162.002 art. VII, Section C shall apply.

a) *Substitute Passing Standard*

A substitute passing standard adopted by the Commissioner may be applied only for a qualified military dependent who enrolls in a Texas public school in this state for the first time after completing the ninth grade or who reenrolls in a Texas public school at or above the tenth-grade level after an absence of at least two years from Texas public schools. Each passing standard in effect when a student first enrolls in a Texas public high school remains applicable to the student for the duration of the student's high school enrollment, regardless of any subsequent revision of the standard.

Tex. Educ. Code § 162.002 art. VII, §§ B–C.

Sec. 5. ADMINISTRATION OF ASSESSMENTS

AAL shall follow the test administration procedures established by the Texas Education Agency ("TEA") in the applicable test administration materials. The Superintendent shall be responsible for administering tests. *19 TAC 101.25, 101.27*.

Each assessment instrument required under Texas Education Code 39.023(a), (c), or (l) must be administered electronically, unless otherwise provided by Commissioner Rule.

Tex. Educ. Code § 39.0234(a).

a) *Assessment Schedule*

The Commissioner shall specify the schedule for testing and field testing. Participation in University Interscholastic League (UIL) area, regional, or state competitions is prohibited on any days on which testing is scheduled between Monday and Thursday of the school week in which the primary administration of assessment instruments occurs. The Commissioner may provide alternate dates for the administration of tests required for a high school diploma to students who are migratory children and who are out of the state.

19 Tex. Admin. Code § 101.25.

b) *Alternate Test Dates*

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

AAL or a campus may request from the Commissioner an alternate test date. Alternate test dates will only be allowed if AAL or campus is closed on the day on which testing is scheduled or if there is an exceptional circumstance, defined below, that may affect AAL's or campus' ability to administer an assessment or the students' performance on an assessment. "Exceptional circumstances" include:

1. Inclement weather or natural disasters that would cause AAL or campus to be closed or that would cause a small percentage of students to be in attendance on the day testing is scheduled;
2. Health epidemics that result in a large number of students being absent on the day of testing;
3. Death of a student or school official that may impact student performance; and
4. Sudden emergencies that occur on the day of testing or shortly before testing that may inhibit students from completing the assessments, such as a fire on campus, a bomb threat, an extended power outage, or a water main break.

If an alternate test date for primary test administration is approved, the Commissioner may prohibit AAL or campus from participating in UIL competition on the new test date if that is determined to be in the best interest of AAL, campus, and students.

19 Tex. Admin. Code § 101.5003.

c) *Assessment on Religious Holy Days*

For purposes of this subsection, "religious holy day or period of observance" means a holy day or a period of holy days observed by a religion whose places of worship would be exempt from property taxation under Texas Tax Code § 11.20.

The Board may consider the dates of religious holy days or periods of observance likely to be observed by enrolled students during the assessment schedule window under Texas Education Code § 39.02301(i) in establishing:

1. AAL's calendar for that school year; and
2. The instructional days within that period on which students are administered the required assessment instruments, provided that the Board may not exclude more than two instructional days from that period based solely on the occurrence of a single religious holy day or period of observance.

In establishing a school calendar, the Board shall provide for alternative dates for the administration of state assessments who is absent from school to observe a religious holy day or period of observance on the date an assessment instrument is administered.

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

Tex. Educ. Code § 39.0238.

d) *Request for Paper Administration*

Subject to the limitations in this subsection and notwithstanding Texas Education Code § 39.023, AAL may administer in paper format a nonadaptive assessment instrument adopted or developed by the Texas Education Agency as a substitute for an assessment instrument required under Texas Education Code 39.023(a), (c), or (l) to any student whose parent, guardian, or teacher in the applicable subject area requests the assessment instrument be administered to the student in paper format.

Tex. Educ. Code § 39.02342(a).

A request for the administration of an assessment instrument in paper format must be submitted to the school not later than a reasonable date as determined by the Texas Education Agency, which must be not later than the 60th day before the date the applicable assessment administration schedule window under Texas Education Code § 39.02301(i) closes.

Tex. Educ. Code § 39.02342(b).

The number of students enrolled at AAL who are administered an assessment instrument in paper format for any single administration may not exceed three percent of the number of students enrolled in AAL. On receipt of more requests for administration of an assessment instrument than the maximum number permitted under this subsection, AAL shall accept the requests in the order received until the maximum number is reached.

This limitation does not apply to a student whose admission, review, and dismissal committee determines that the administration of an assessment instrument in paper format is a necessary modification for the student.

Tex. Educ. Code § 39.02342(c).

Sec. 6. NOTICE TO STUDENTS AND PARENTS

The Superintendent shall be responsible for providing written notice to each student and the student's parent or guardian of the testing requirements for graduation and the dates, times, and locations of testing. Notice of testing requirements shall be provided no later than the beginning of the student's seventh-grade year. The Superintendent shall also provide such notice for students in grades 7–12 who are new to AAL. Notice of the dates, times, and locations of testing shall be provided to each student who will take the tests and to out-of-school individuals.

19 Tex. Admin. Code § 101.3012(a).

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.
SLHA Schulman, Lopez, Hoffer & Adelstein, LLP

Sec. 7. ASSESSMENTS IN GRADES 3–8

Unless otherwise excepted or exempted by law, all students shall be assessed in:

1. Mathematics, annually in grades 3–8;
2. Reading, annually in grades 3–8;
3. Social studies in grade 8;
4. Science in grades 5 and 8; and
5. Any other subject and grade required by federal law.

Tex. Educ. Code § 39.023(a).

a) *Exception*

Except as required for purposes of federal accountability, a student shall not be administered a grade-level assessment if the student:

1. Is enrolled in a course or subject intended for students above the student's enrolled grade level and will be administered a grade-level assessment instrument developed under the list above that aligns with the curriculum for that course or subject within the same content area; or
2. Is enrolled in a course for high school credit in a subject intended for students above the student's enrolled grade level and will be administered an EOC assessment instrument that aligns with the curriculum for that course or subject within the same content area.

A student is only eligible to take an assessment instrument intended for use above the student's enrolled grade if the student is receiving instruction in the entire curriculum for that subject.

A student in grade 5 or 8 described above may not be denied promotion on the basis of failure to perform satisfactorily on an assessment instrument above the student's grade level.

Tex. Educ. Code §§ 28.0211(p), 39.023(a-2); 19 Tex. Admin. Code § 101.3011.

b) *Kindergarten Assessment*

A kindergarten student may not be administered an assessment instrument under Texas Education Code 39.023 except to determine whether the student is entitled to the benefit of the Foundation School Program.

Tex. Educ. Code § 39.023(a-16).

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.
SLHA Schulman, Lopez, Hoffer & Adelstein, LLP

c) *Prekindergarten Assessment*

A prekindergarten student's performance on an assessment instrument may not be considered for any purpose related to Texas Education Code Chapters 39 and 39A.

Tex. Educ. Code § 39.0237.

d) *Assessment Accommodations*

Assessment accommodations are permitted for any student unless they would make a particular test invalid. Decisions regarding accommodation shall take into consideration the needs of the student and the accommodation the student routinely receives in classroom instruction. Permissible accommodations shall be described in the appropriate test administration materials.

The committee established to determine the placement of students with dyslexia or related disorders shall determine whether any allowable modification is necessary in administering an assessment to such a student. For a student receiving special education services, the ARD committee shall determine the allowable accommodations and shall document them in the student's Individualized Education Program ("IEP").

19 Tex. Admin. Code § 101.3013; Tex. Educ. Code § 39.023(a)-(c), (n); 34 CFR 300.320(a)(6).

Sec. 8. END-OF-COURSE ASSESSMENTS

Students in grade 9 and above who are enrolled in a course for which an EOC assessment exists as required by Texas Education Code 39.023(c) shall take the appropriate assessment.

19 Tex. Admin. Code § 101.3021(a).

a) *Students Enrolled Below High School Level*

A student in grade 8 or lower who takes a high school course for credit is required to take the applicable EOC assessment. The EOC assessment result shall be applied toward the student's assessment graduation requirements, as specified in 19 TAC 101.3022.

19 Tex. Admin. Code § 101.3021(d).

b) *Assessment Requirements for Graduation*

A student must meet satisfactory performance on an EOC assessment listed in Texas Education Code § 39.023(c) only for a course in which the student is enrolled and for which an EOC assessment instrument is administered in order to be eligible to receive a Texas diploma.

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.
SLHA Schulman, Lopez, Hoffer & Adelstein, LLP

i. *Exceptions: English I or English II*

A student who was administered separate reading and writing EOC assessments under Texas Education Code § 39.023(c), for the English I or English II course has met that course's assessment graduation requirement if the student has:

1. Achieved satisfactory performance on either the reading or writing EOC assessment for that course;
2. Met at least the minimum score on the other EOC assessment for that course; and
3. Achieved an overall scale score of 3750 or greater when the scale scores for reading and writing are combined for that course.

Exceptions related to English I also apply to emergent bilingual student learners who meet the criteria in 19 Texas Administrative Code § 101.1007.

ii. *Exceptions: Credits Earned Prior to Enrollment*

If a student earned high school credit for a course with an EOC assessment prior to enrollment in a Texas public school and the credit has been accepted by a Texas public school, or a student completed a course for Texas high school credit in a course with an EOC assessment prior to the 2011–2012 spring administration, the student is not required to take the corresponding EOC assessment.

19 Tex. Admin. Code § 101.3021(e), .3022.

c) *Substitute Assessments*

A student may use certain assessments as substitute assessments in place of an EOC assessment, to meet the student's assessment graduation requirements in accordance with the Commissioner's chart at 19 Texas Administrative Code § 101.4002(b). An approved substitute assessment may be used in place of only one specific EOC assessment.

A student is eligible to use a substitute assessment if the student meets all eligibility criteria listed in 19 Texas Administrative Code § 101.4002(c)-(d).

A student electing to substitute an assessment for graduation purposes must still take the required EOC assessment if the student does not meet the eligibility requirements above. If a student sits for an EOC assessment, the test may not be voided or invalidated in lieu of a substitute assessment.

A student who fails to perform satisfactorily on the PSAT or the ACT-PLAN as indicated in the chart at 19 Texas Administration Code § 101.4002(b) must take the appropriate EOC assessment to meet the assessment graduation requirements for that subject. However, a student who does not

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

receive a passing score on the EOC assessment and retakes a PSAT or Pre-ACT test (or any versions of these tests) is eligible to meet the requirements in 19 Texas Administration Code § 101.4002(c).

i. *Verification of Results*

An eligible student is responsible for providing AAL an official copy of the student's scores from the substitute assessment. Upon receipt of official results of an approved substitute assessment, AAL must:

1. Verify the student's score on the substitute assessment; and
2. Determine whether the student met the performance standard required to qualify for a public high school diploma in Texas as established by the Commissioner.

19 Tex. Admin. Code § 101.4002, .4005.

d) *Satisfactory Performance*

A student is required to achieve a scale score that indicates satisfactory performance, as determined by the Commissioner, on each EOC assessment instrument administered to the student.

Tex. Educ. Code § 39.025(a).

e) *Individual Graduation Committee*

A student in grade 11 or 12 who has failed to comply with the EOC assessment instrument performance requirements under Texas Education Code § 39.025 for not more than two courses may qualify to graduate on the basis of a review by an individual graduation committee ("IGC"). *Tex. Educ. Code § 28.0258.*

f) *Special Education*

A student receiving special education services is not subject to the IGC requirements in Texas Education Code § 28.0258. As provided in 19 Texas Administrative Code § 89.1070 (Graduation Requirements) and 19 Texas Administrative Code § 101.3023 (Participation and Graduation Assessment Requirements for Students Receiving Special Education Services), a student's ARD committee determines whether a student is required to achieve satisfactory performance on an EOC assessment to graduate.

A student dismissed from a special education program who achieved satisfactory performance on an alternate EOC assessment while enrolled in a special education program is not required to take

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.
SLHA Schulman, Lopez, Hoffer & Adelstein, LLP

and achieve satisfactory performance on the general EOC assessment to graduate. A student who took an EOC assessment while enrolled in a special education program is not required to retake and achieve satisfactory performance on the EOC assessment if the student's ARD committee determined that the student was not required to achieve satisfactory performance on the EOC assessment to graduate. A student dismissed from a special education program must achieve satisfactory performance on any remaining EOC assessments that the student is required to take. If the student fails to achieve satisfactory performance on no more than two of the remaining EOC assessments, the student is eligible for IGC review under Texas Education Code § 28.0258 and is subject to the IGC provisions above.

19 Tex. Admin. Code § 101.3022(f).

A student receiving special education services who successfully completes the requirements of his or her IEP, including performance on a state assessment required for graduation, shall receive a Texas high school diploma. A student's ARD committee shall determine if the student will be required to meet satisfactory performance on an assessment for purposes of graduation.

All students in grades 9–12 with significant cognitive disabilities who are assessed with an alternate assessment as specified in the student's IEP will be assessed using alternate versions of EOC assessments as listed in 19 Texas Administrative Code § 101.3011(b)(2).

19 Tex. Admin. Code § 101.3023(a)-(b).

g) *Credit by Examination*

An EOC assessment administered under Texas Education Code § 39.023(c) cannot be used for purposes of credit by examination under 19 Texas Administrative Code § 74.24.

19 Tex. Admin. Code § 101.3021(c).

h) *Retakes*

Each time an EOC assessment instrument is administered, a student who failed to achieve a score requirement may retake the assessment instrument. A student is not required to retake a course as a condition of retaking an EOC assessment instrument. If a student failed a course but achieved satisfactory performance on the applicable EOC assessment, that student is not required to retake the assessment if the student is required to retake the course.

Tex. Educ. Code § 39.025(b); 19 Tex. Admin. Code §§ 101.3021(f), .3022(d).

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

Sec. 9. REPORTING RESULTS

a) *Public Reports*

Overall student performance data, aggregated by ethnicity, sex, grade level, subject area, campus, and district, shall be made available to the public, with appropriate interpretations, at regularly scheduled meetings of the Board, after receipt from TEA. The information shall not contain the names of individual students or teachers.

Tex. Educ. Code § 39.030(b).

b) *Reports to the Board*

The Superintendent shall accurately report all test results, with appropriate interpretations, to the Board according to the schedule in the applicable test administration materials.

c) *Reports to Students, Parents, and Teachers*

AAL shall notify each of its students, his or her parent or guardian, and his or her teacher for that subject of test results, observing confidentiality requirements stated in Section 12-c below. All test results shall be included in each student's academic achievement record and shall be furnished for each student transferring to another district or school. Upon receipt of the assessment results from the test contractor, AAL shall disclose a student's assessment results to a student's teacher in the same subject area as the assessment for that school year.

19 Tex. Admin. Code § 101.3014.

The TEA has adopted a series of questions to be included in an EOC assessment instrument administered under Texas Education Code § 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. AAL shall notify a student who performs at a high level on the questions and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. AAL
may not require a student to perform at a particular level on the questions to be eligible to enroll in an advanced high school course.

Tex. Educ. Code § 39.0233(b).

d) *Parent's Right-to-Know Under ESSA*

As a condition of receiving assistance under Title I, Part A of the Elementary and Secondary Education Act (ESEA) (20 U.S.C. 6301 et seq.), AAL

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.
SLHA Schulman, Lopez, Hoffer & Adelstein, LLP

shall provide to each individual parent of a child who is a student in such school, with respect to such student information on the level of achievement and academic growth of the student, if applicable and available, on each of the state academic assessments required under Part A.

20 U.S.C. § 6312(e)(1)(B)(i).

Sec. 10. OUT-OF-STATE TRANSFERS

AAL shall accurately report to TEA whether that student transferred into AAL from out of state during the current school year. Procedures for the reporting of out-of-state-transfer students to TEA shall be established in the applicable test administration materials. AAL shall follow procedures specified in those test administration materials.

The assessment results of the out-of-state transfer students shall be reported separately to AAL from the results of its other students in addition to the current reporting of assessment results for all students and other student subsets.
19 Tex. Admin. Code § 101.3014.

Sec. 11. ACCELERATED INSTRUCTION

AAL shall provide accelerated instruction to any student who fails to perform satisfactorily on a state assessment instrument in the manner required by applicable law. *See also* PG-2.205 (Accelerated Instruction).

Sec. 12. ASSESSMENT SECURITY AND CONFIDENTIALITY

All assessment instruments included in the student assessment program are considered secure, and the contents of these tests, including student information used or obtained in their administration, are confidential.
The Superintendent and campus principals in all AAL schools shall:

1. Implement and ensure compliance with state test administration procedures and training activities;
2. Notify TEA as soon as AAL becomes aware of any alleged or suspected violation of the security or confidential integrity of an assessment;
3. Report all confirmed testing violations to TEA within 10 working days of AAL becoming aware of the violation in accordance with the reporting process stipulated in the test administration materials;
4. Ensure that the only individuals with access to secure assessment materials are AAL employees who have:
   a. Met the requirements to participate in the student assessment program;
   b. Received annual training in test security and test administration procedures; and

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

c. Signed an oath affirming they understand their obligation to maintain and preserve the security and confidentiality of all state assessments and student information, acknowledge their responsibility to report any suspected testing violation, and are aware of the range of penalties that may result from a violation of test security and confidentiality or a departure from test administration procedures; and

5. Ensure the security of assessment materials by:
   a. Verifying that all boxes of testing materials have been accounted for and match AAL shipping notices upon receipt from the state's testing contractor(s);
   b. Requiring campuses to immediately inventory all testing materials received and to notify the AAL testing coordinator of any shortages or discrepancies;
   c. Immediately notifying the state's testing contractor(s) of any discrepancies between the materials received and AAL's shipping notices;
   d. Placing test booklets and answer documents in secure, limited-access, locked storage when not in use;
   e. Collecting and destroying any scratch paper, graph paper, or reference materials that students have written on, as well as any recordings, after the completion of a test administration;
   f. Requiring that all secure materials assigned to individual campuses have been accounted for and packaged in accordance with the procedures for returning materials as detailed in the test administration materials;
   g. Requiring that all test item image cards and photocopies or reproductions of secure test materials have been collected and returned to the AAL testing coordinator for return to the testing contractor(s); and
   h. Maintaining inventory and shipping records for five years.

19 Tex. Admin. Code § 101.3031(a)(1)-(a)(2).

a) *Security and Confidentiality Violations*

Violations of the security and confidential integrity of an assessment include:

1. Directly or indirectly assisting students with responses to test questions;
2. Tampering with student responses;
3. Falsifying holistic ratings or student responses;
4. Viewing secure test content before, during, or after an administration unless specifically authorized by TEA or by the procedures outlined in the test administration materials;
5. Discussing or disclosing secure test content or student responses;
6. Scoring students' tests, either formally or informally;
7. Duplicating, recording, or electronically capturing confidential test content unless specifically authorized by TEA or by the procedures outlined in the test administration materials;

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

8. Responding to secure test questions;
9. Fraudulently exempting or preventing a student from participating in the administration of a required state assessment;
10. Receiving or providing unallowable assistance during calibration activities (e.g., taking notes, providing answer sheets, or sharing answers);
11. Encouraging or assisting an individual to engage in the conduct described in subparagraphs (1)-(10) above or in any other serious violation of security and confidentiality;
12. Failing to report to an appropriate authority that an individual has engaged or is suspected of engaging in conduct described in subparagraphs (1)-(11) above or in any other serious violation of security and confidentiality under this section;
13. Failing to implement sufficient procedures to prevent student cheating; and
14. Failing to implement sufficient procedures to prevent alteration of test documents by anyone other than the student.

i. *Consequences / Penalties*

If AAL determines that a student has cheated or attempted to cheat on a state assessment either by providing or receiving direct assistance, AAL shall invalidate the student's test results. Any violation of test security or confidential integrity may result in TEA:

1. Invalidating student test results;
2. Referring certified educators to the State Board for Education Certification for sanctions; and
3. Lowering AAL's accreditation status AAL's or campus's accountability ratings, or appointment of a monitor, conservator, or a management team in accordance with Texas Education Code Chapter 39A.

ii. *Test Administration Procedures and Training Activities*

Test administration procedures shall be delineated in the test administration materials provided to AAL annually. AAL must comply with all of the applicable requirements specified in the test administration materials.

AAL shall ensure that test coordinators and administrators receive training to ensure that testing personnel have the necessary skills and knowledge required to administer assessment instruments in a valid, standardized, and secure manner.

iii. *Record Retention*

AAL shall maintain records related to the security of assessment instruments for five years.

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.

19 Tex. Admin. Code § 101.3031(a-3)-(d).

iv. *Development of Procedures*

The Superintendent and each Principal must develop procedures to ensure the security and confidentiality of state assessments and will be responsible for notifying TEA in writing of conduct that violates the security or confidentiality of an assessment.

b) *Minimize Disruptions*

In implementing the Commissioner's procedures for the administration of assessment instruments adopted or developed under Texas Education Code § 39.023, including procedures designed to ensure the security of the assessment, AAL shall minimize disruptions to school operations and the classroom environment, and follow instructions to help mitigate potential student test anxiety.

Tex. Educ. Code § 39.0301(a-1).

c) *Assessment Confidentiality Results*

Individual student performance results are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974 (FERPA).

Tex. Educ. Code § 39.030(b).

© 2024 Schulman, Lopez, Hoffer & Adelstein, LLP
All rights reserved.