

EDUCATION CODE

TITLE 2. PUBLIC EDUCATION

SUBTITLE H. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY

CHAPTER 39. PUBLIC SCHOOL SYSTEM ACCOUNTABILITY

SUBCHAPTER A. COMPREHENSIVE REVIEW OF PUBLIC SCHOOL
ACCOUNTABILITY SYSTEM

For expiration of this subchapter, see Section 39.007.

Sec. 39.001. SELECT COMMITTEE ON PUBLIC SCHOOL ACCOUNTABILITY. (a) The Select Committee on Public School Accountability is established to conduct a comprehensive review of the public school accountability system.

(b) The committee is composed of 15 members appointed as follows:

(1) the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education;

(2) one member of the senate, appointed by the lieutenant governor;

(3) one member of the house of representatives, appointed by the speaker of the house of representatives;

(4) the commissioner;

(5) the commissioner of higher education;

(6) one public school teacher, one public school principal, and one public school district superintendent, each currently employed in this state and each appointed jointly by the lieutenant governor and the speaker of the house of representatives;

(7) two persons each of whom is currently employed as an

educator in a public school in this state and each appointed jointly by the lieutenant governor and the speaker of the house of representatives;

(8) one representative from the business community or the public, appointed by the lieutenant governor;

(9) one representative from the business community or the public, appointed by the speaker of the house of representatives; and

(10) two representatives from the business community and the public, at least one of whom has one or more children who currently attend public school in this state, appointed by the governor.

(c) The governor, lieutenant governor, and speaker of the house of representatives shall make the appointments required by Subsection (b) in a timely fashion to permit the committee to comply with Section 39.002(a).

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 7, eff. September 1, 2007.

Sec. 39.002. COMMITTEE MEETINGS. (a) Not later than October 1, 2007, the committee shall hold an organizational meeting.

(b) The presiding officers described by Section 39.001(b)(1) serve as co-chairs of the committee.

(c) Committee meetings shall be held at the call of the co-chairs.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 7, eff. September 1, 2007.

Sec. 39.003. COMPENSATION AND REIMBURSEMENT. (a) A member of the committee is entitled to reimbursement for actual and

necessary expenses incurred in performing committee duties.

(b) A legislative member of the committee is entitled to reimbursement from the appropriate fund of the house of the legislature in which the member serves.

(c) A member other than a legislative member is entitled to reimbursement from funds appropriated to the committee.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 7, eff. September 1, 2007.

Sec. 39.004. COMMITTEE STAFF. Staff members of the standing committees described by Section 39.001(b)(1) shall serve as the staff of the committee.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 7, eff. September 1, 2007.

Sec. 39.005. OBJECTIVES OF STUDY. (a) The committee shall conduct a comprehensive review of the public school accountability system. In conducting its review, the committee shall study the mission, organizational structure, design, processes, and practices of similar accountability systems in other states and the requirements established by federal law.

(b) A review under this section must include a thorough study of:

(1) each element of the accountability system prescribed by this chapter, with special emphasis on:

(A) the indicators used to determine accreditation status;

(B) rewards and incentives for campus excellence;
and

(C) the responsibilities of the commissioner in

assisting and, if necessary, imposing sanctions on districts that do not meet state performance standards;

(2) the extent to which the accountability system is aligned with the requirements prescribed by the No Child Left Behind Act of 2001 (20 U.S.C. Section 6301 et seq.);

(3) the extent to which the accountability system reflects the public education mission, objectives, and goals provided by Chapter 4;

(4) the extent to which the accountability system meets public expectations;

(5) the extent to which the accountability system fairly and accurately reports the effectiveness of educators, instructional programs, support services, and financial expenditures and the impact of these elements on student achievement;

(6) the methods available to monitor the progress of each public school student, with special emphasis on methods to monitor demonstrable growth in academic achievement;

(7) the performance indicators that would successfully measure the effectiveness of the campus teaching and learning environment, including the effect of student discipline on that environment;

(8) the effectiveness of the accountability system in reporting the performance of open-enrollment charter schools and alternative education programs;

(9) the implementation of statewide assessment instruments, including specifically end-of-course assessment instruments;

(10) the extent to which the accountability system measures the performance of districts and campuses on important

indicators and aspects of the educational process, other than student scores on standardized assessment instruments;

(11) the extent to which the accountability system clearly and accurately reports to parents and interested persons the overall performance of districts and campuses; and

(12) the extent to which the accountability system considers the different student demographics of districts and campuses.

(c) The committee shall conduct public hearings throughout the state and solicit testimony about the accountability system from parents of public school children and other interested persons. At least one public hearing must be held at a public school during a time that public school students are able to attend the hearing.

(d) The commissioner shall ensure that the committee has access to any documentation and agency personnel the committee requests.

(e) The Legislative Budget Board, comptroller, state auditor, and any other state agency, official, or personnel shall cooperate with the committee in carrying out its duties under this subchapter.

(f) The committee may coordinate the study under this subchapter with any other legislative study, as appropriate.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 7, eff. September 1, 2007.

Sec. 39.006. REPORT. (a) Not later than December 1, 2008, the committee shall provide a report that:

(1) states the findings of the study conducted under this subchapter; and

(2) includes any recommendations for statutory changes.

(b) The report must be approved by a majority of the committee members. A member who disagrees with any part of the report may attach a dissenting statement to the report.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 7, eff. September 1, 2007.

Sec. 39.007. EXPIRATION. This subchapter expires January 13, 2009.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 7, eff. September 1, 2007.

SUBCHAPTER B. ASSESSMENT OF ACADEMIC SKILLS

Sec. 39.021. ESSENTIAL SKILLS AND KNOWLEDGE. The State Board of Education by rule shall establish the essential skills and knowledge that all students should learn to achieve the goals provided under Section 4.002.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.022. ASSESSMENT PROGRAM. The State Board of Education by rule shall create and implement a statewide assessment program that is knowledge- and skills-based to ensure school accountability for student achievement that achieves the goals provided under Section 4.002. After adopting rules under this section, the State Board of Education shall consider the importance of maintaining stability in the statewide assessment program when adopting any subsequent modification of the rules.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 397, Sec. 2, eff. Sept. 1, 1999.

Sec. 39.023. ADOPTION AND ADMINISTRATION OF INSTRUMENTS.

(a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. All students, except students assessed under Subsection (b) or (1) or exempted under Section 39.027, shall be assessed in:

(1) mathematics, annually in grades three through seven without the aid of technology and in grade eight with the aid of technology on any assessment instrument that includes algebra;

(2) reading, annually in grades three through eight;

(3) writing, including spelling and grammar, in grades four and seven;

(4) social studies, in grade eight;

(5) science, in grades five and eight; and

(6) any other subject and grade required by federal law.

(b) The agency shall develop or adopt appropriate criterion-referenced assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, who receives modified instruction in the essential knowledge and skills identified under Section 28.002 for the assessed subject but for whom an assessment instrument adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee. The assessment instruments required under this subsection must assess essential knowledge and skills and growth in the subjects of reading, mathematics, and writing. A student's admission, review, and dismissal committee shall determine whether any allowable

modification is necessary in administering to the student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).

(c) The agency shall also adopt end-of-course assessment instruments for secondary-level courses in Algebra I, Algebra II, geometry, biology, chemistry, physics, English I, English II, English III, world geography, world history, and United States history. The Algebra I, Algebra II, and geometry end-of-course assessment instruments must be administered with the aid of technology. A school district shall comply with State Board of Education rules regarding administration of the assessment instruments listed in this subsection and shall adopt a policy that requires a student's performance on an end-of-course assessment instrument for a course listed in this subsection in which the student is enrolled to account for 15 percent of the student's final grade for the course. If a student retakes an end-of-course assessment instrument for a course listed in this subsection, as provided by Section 39.025, a school district is not required to use the student's performance on the subsequent administration or administrations of the assessment instrument to determine the student's final grade for the course. If a student is in a special education program under Subchapter A, Chapter 29, the student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection or whether the student should be exempted under Section 39.027(a)(2). The State Board of Education shall administer the assessment instruments. The State Board of Education shall adopt a

schedule for the administration of end-of-course assessment instruments that complies with the requirements of Subsection (c-3).

(c-1) The agency shall develop any assessment instrument required under this section in a manner that allows for the measurement of annual improvement in student achievement as required by Sections 39.034(c) and (d).

(c-2) The agency may adopt end-of-course assessment instruments for courses not listed in Subsection (c). A student's performance on an end-of-course assessment instrument adopted under this subsection is not subject to the performance requirements established under Subsection (c) or Section 39.025.

(c-3) In adopting a schedule for the administration of assessment instruments under this section, the State Board of Education shall require:

(1) assessment instruments administered under Subsection (a) to be administered on a schedule so that the first assessment instrument is administered at least two weeks later than the date on which the first assessment instrument was administered under Subsection (a) during the 2006-2007 school year; and

(2) the spring administration of end-of-course assessment instruments under Subsection (c) to occur in each school district not earlier than the first full week in May, except that the spring administration of the end-of-course assessment instruments in English I, English II, and English III must be permitted to occur at an earlier date.

(c-4) To the extent practicable, the agency shall ensure that each end-of-course assessment instrument adopted under Subsection (c) is:

(1) developed in a manner that measures a student's

performance under the college readiness standards established under Section 28.008; and

(2) validated by national postsecondary education experts for college readiness content and performance standards.

(c-5) A student's performance on an end-of-course assessment instrument required under Subsection (c) must be included in the student's academic achievement record.

(c-6) In adopting an end-of-course assessment instrument under this section, the agency shall consider the use of an existing assessment instrument that is currently available. The agency may use an existing assessment instrument that is currently available only if the assessment instrument:

(1) is aligned with the essential knowledge and skills of the subject being assessed; and

(2) allows for the measurement of annual improvement in student achievement as provided by Subsection (c-1).

(d) The commissioner may participate in multistate efforts to develop voluntary standardized end-of-course assessment instruments. The commissioner by rule may require a school district to administer an end-of-course assessment instrument developed through the multistate efforts. The admission, review, and dismissal committee of a student in a special education program under Subchapter A, Chapter 29, shall determine whether any allowable modification is necessary in administering to the student an end-of-course assessment instrument or whether the student should be exempted under Section 39.027(a)(2).

(e) Under rules adopted by the State Board of Education, every third year, the agency shall release the questions and answer keys to each assessment instrument administered under Subsection (a), (b), (c), (d), or (1) after the last time the instrument is

administered for that school year. To ensure a valid bank of questions for use each year, the agency is not required to release a question that is being field-tested and was not used to compute the student's score on the instrument. The agency shall also release, under board rule, each question that is no longer being field-tested and that was not used to compute a student's score.

(f) The assessment instruments shall be designed to include assessment of a student's problem-solving ability and complex-thinking skills using a method of assessing those abilities and skills that is demonstrated to be highly reliable.

(g) The State Board of Education may adopt one appropriate, nationally recognized, norm-referenced assessment instrument in reading and mathematics to be administered to a selected sample of students in the spring. If adopted, a norm-referenced assessment instrument must be a secured test. The state may pay the costs of purchasing and scoring the adopted assessment instrument and of distributing the results of the adopted instrument to the school districts. A district that administers the norm-referenced test adopted under this subsection shall report the results to the agency in a manner prescribed by the commissioner.

(h) The agency shall notify school districts and campuses of the results of assessment instruments administered under this section at the earliest possible date determined by the State Board of Education but not later than the beginning of the subsequent school year.

(i) The provisions of this section, except Subsection (d), are subject to modification by rules adopted under Section 39.022. Each assessment instrument adopted under those rules and each assessment instrument required under Subsection (d) must be reliable and valid and must meet any applicable federal

requirements for measurement of student progress.

(j) Repealed by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 18, eff. September 1, 2007.

(k) Notwithstanding Subsection (e), the agency shall initially release under Subsection (e) the questions and answer keys to each assessment instrument administered under Subsection (b) during the third school year in which the instrument is administered after the last time the instrument is administered for that school year. This subsection expires September 1, 2004.

(l) The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through six who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(3) or (4). Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a). The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.

(m) The commissioner by rule shall develop procedures under which the language proficiency assessment committee established under Section 29.063 shall determine which students are exempt from the administration of the assessment instruments under Section 39.027(a)(3) and (4). The rules adopted under this subsection shall ensure that the language proficiency assessment committee

provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) at the earliest practical date.

(n) This subsection applies only to a student who is determined to have dyslexia or a related disorder and who is an individual with a disability under 29 U.S.C. Section 705(20) and its subsequent amendments. The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess the ability of and to be administered to each student to whom this subsection applies for whom the assessment instruments adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the committee established by the board of trustees of the district to determine the placement of students with dyslexia or related disorders. The committee shall determine whether any allowable modification is necessary in administering to a student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 767, Sec. 1, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 397, Sec. 3, 8, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 8, Sec. 1, eff. April 11, 2001; Acts 2001, 77th Leg., ch. 834, Sec. 9, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 201, Sec. 25, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 430, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 433, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1212, Sec. 11, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1275, Sec. 2(20), eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 8, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 18, eff. September 1, 2007.

Sec. 39.0231. REPORTING OF RESULTS OF CERTAIN ASSESSMENTS.

The agency shall ensure that each assessment instrument administered in accordance with Section 28.0211 is scored and that the results are returned to the appropriate school district not later than 10 days after receipt of the test materials by the agency or its test contractor.

Added by Acts 1999, 76th Leg., ch. 396, Sec. 2.18, eff. Sept. 1, 1999.

Sec. 39.0232. USE OF END-OF-COURSE ASSESSMENT INSTRUMENT AS PLACEMENT INSTRUMENT. To the extent practicable, the agency shall ensure that any high school end-of-course assessment instrument developed by the agency is developed in such a manner that the assessment instrument may be used to determine the appropriate placement of a student in a course of the same subject matter at an institution of higher education.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 5.05, eff. May 31, 2006.

Sec. 39.0233. SPECIAL-PURPOSE QUESTIONS INCLUDED IN END-OF-COURSE ASSESSMENT INSTRUMENTS. (a) The agency, in coordination with the Texas Higher Education Coordinating Board, shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for

purposes of Section 51.3062. The questions adopted under this subsection must be developed in a manner consistent with any college readiness standards adopted under Sections 39.113 and 51.3062.

(b) In addition to the questions adopted under Subsection (a), the agency shall adopt a series of questions to be included in an end-of-course assessment instrument administered under Section 39.023(c) to be used for purposes of identifying students who are likely to succeed in an advanced high school course. A school district shall notify a student who performs at a high level on the questions adopted under this subsection and the student's parent or guardian of the student's performance and potential to succeed in an advanced high school course. A school district may not require a student to perform at a particular level on the questions adopted under this subsection in order to be eligible to enroll in an advanced high school course.

(c) The State Board of Education shall establish a level of performance on the questions adopted under this section that indicates a student's college readiness. A student's performance on the questions adopted under this section must be evaluated separately from the student's performance on the remainder of the assessment instrument. A student's performance on a question adopted under this section may not be used to determine the student's performance on the assessment instrument for purposes of Section 39.023 or 39.025. The commissioner shall adopt rules concerning the reporting of a student's performance on the questions adopted under this section.

(d) The questions adopted under this section must be administered in a separate section of the end-of-course assessment instrument in which the questions are included.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 9, eff. September 1, 2007.

Sec. 39.0234. ADMINISTRATION OF ASSESSMENT INSTRUMENTS BY COMPUTER. (a) The agency shall ensure that assessment instruments required under Section 39.023 are capable of being administered by computer.

(b) Not later than September 1, 2008, each school district shall provide the agency with data regarding the ability of the district to administer to students assessment instruments required under Section 39.023 by computer. The agency shall compile the data provided by school districts under this subsection into a report recommending a plan and timeline for enabling each district in this state to administer the assessment instruments by computer. Not later than December 1, 2008, the agency shall deliver the report to each member of the legislature. This subsection expires June 1, 2009.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 9, eff. September 1, 2007.

Sec. 39.0235. TECHNOLOGY LITERACY ASSESSMENT PILOT PROGRAM.

(a) In this section, "pilot program" means the technology literacy assessment pilot program.

(b) The commissioner by rule shall establish a pilot program in which a participating school district assesses student technology proficiency.

(c) A school district may apply to the commissioner to participate in the pilot program. The commissioner shall select for participation school districts from both rural and urban areas of the state.

(d) The agency shall adopt an assessment instrument designed to assess an individual student's mastery of the essential knowledge and skills in technology to be administered by a school district participating in the pilot program. The assessment instrument adopted under this subsection must be an existing product that is currently available.

(e) Each school year, the assessment instrument adopted under Subsection (d) shall be administered in a participating school district to each student in either fifth, sixth, seventh, eighth, or ninth grade, with the grade level and time to be determined by the district.

(f) The assessment instrument adopted under Subsection (d) must:

- (1) be administered online;
- (2) be aligned with the essential knowledge and skills requirements for technology applications; and
- (3) incorporate performance-based measures, including a requirement that students perform certain technological tasks and respond to questions based on the completion of those tasks.

(g) An assessment instrument administered by a participating school district must be designed in a manner to provide the district with an automatic report of the technology literacy proficiency of a district student in a format that is compatible with the school district and state data information systems.

(h) A participating school district shall report student performance on the assessment instrument to the agency.

Added by Acts 2007, 80th Leg., R.S., Ch. 1237, Sec. 1, eff. June 15, 2007.

Sec. 39.024. SATISFACTORY PERFORMANCE. (a) Except as

otherwise provided by this subsection, the State Board of Education shall determine the level of performance considered to be satisfactory on the assessment instruments. The admission, review, and dismissal committee of a student being assessed under Section 39.023(b) shall determine the level of performance considered to be satisfactory on the assessment instruments administered to that student in accordance with criteria established by agency rule.

(b) Repealed by Acts 2003, 78th Leg., ch. 1212, Sec. 14.

(c) The agency shall develop study guides for the assessment instruments administered under Sections 39.023(a) and (c). To assist parents in providing assistance during the period that school is recessed for summer, each school district shall distribute the study guides to parents of students who do not perform satisfactorily on one or more parts of an assessment instrument administered under this subchapter.

(d) The agency shall develop and make available teacher training materials and other teacher training resources to assist teachers in enabling students of limited English proficiency to meet state performance expectations. The teacher training resources shall be designed to support intensive, individualized, and accelerated instructional programs developed by school districts for students of limited English proficiency.

(e) The commissioner shall retain a portion of the total amount of funds allotted under Section 42.152(a) that the commissioner considers appropriate to finance activities under Subsections (c) and may retain a portion for activities under Subsection (d) and for intensive programs of instruction for students of limited English proficiency offered by school districts and shall reduce each district's allotment proportionately.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 767, Sec. 2, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 396, Sec. 2.19, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 397, Sec. 4, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 4.006, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1212, Sec. 12, 14, eff. June 20, 2003.

Sec. 39.025. SECONDARY-LEVEL PERFORMANCE REQUIRED. (a) The commissioner shall adopt rules requiring a student participating in the recommended or advanced high school program to be administered each end-of-course assessment instrument listed in Section 39.023(c) and requiring a student participating in the minimum high school program to be administered an end-of-course assessment instrument listed in Section 39.023(c) only for a course in which the student is enrolled and for which an end-of-course assessment instrument is administered. A student is required to achieve, in each subject in the foundation curriculum under Section 28.002(a)(1), a cumulative score that is at least equal to the product of the number of end-of-course assessment instruments administered to the student in that subject and 70, with each end-of-course assessment instrument scored on a scale of 100. A student must achieve a score of at least 60 on an end-of-course assessment instrument for the score to count towards the student's cumulative score. For purposes of this subsection, a student's cumulative score is determined using the student's highest score on each end-of-course assessment instrument administered to the student. A student may not receive a high school diploma until the student has performed satisfactorily on the end-of-course assessment instruments in the manner provided under this subsection. This subsection does not require a student to demonstrate readiness to enroll in an institution of higher

education.

(a-1) The commissioner by rule shall determine a method by which a student's satisfactory performance on an advanced placement test, international baccalaureate examination, a Scholastic Assessment Test (SAT) Subject Test, or another assessment instrument determined by the commissioner to be at least as rigorous as an end-of-course assessment instrument adopted under Section 39.023(c) may be used as a factor in determining whether the student satisfies the requirements of Subsection (a), including the cumulative score requirement of that subsection.

(b) Each time an end-of-course assessment instrument is administered, a student who failed to achieve a score of at least 60 on the assessment instrument shall retake the assessment instrument. Any other student may retake an end-of-course assessment instrument for any reason. A student is not required to retake a course as a condition of retaking an end-of-course assessment instrument.

(b-1) A school district shall provide each student who fails to achieve a score of at least 70 on an end-of-course assessment instrument with accelerated instruction in the subject assessed by the assessment instrument.

(b-2) If a school district determines that a student, on completion of grade 11, is unlikely to achieve the cumulative score requirements for one or more subjects prescribed by Subsection (a) for receiving a high school diploma, the district shall require the student to enroll in a corresponding content-area college preparatory course for which an end-of-course assessment instrument has been adopted, if available. A student who enrolls in a college preparatory course described by this subsection shall be administered an end-of-course assessment instrument for the course,

with the end-of-course assessment instrument scored on a scale of 40. A student may use the student's score on the end-of-course assessment instrument for the college preparatory course towards satisfying the cumulative score requirements prescribed by Subsection (a).

(c) A student who has been denied a high school diploma under this section and who subsequently performs at the level necessary to comply with the requirements of this section shall be issued a high school diploma.

(d) Notwithstanding Subsection (a), the commissioner by rule shall adopt one or more alternative nationally recognized norm referenced assessment instruments under this section to administer to a student to qualify for a high school diploma if the student enrolls after January 1 of the school year in which the student is otherwise eligible to graduate:

(1) for the first time in a public school in this state;

or

(2) after an absence of at least four years from any public school in this state.

(e) The commissioner shall establish a required performance level for an assessment instrument adopted under Subsection (d) that is at least as rigorous as the performance level required to be met under Subsection (a).

(f) The commissioner shall by rule adopt a transition plan to implement the amendments made by S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007, to this section and Sections 39.023(a) and (c) and 39.051(b)(5). The rules must provide for the end-of-course assessment instruments adopted under Section 39.023(c) to be administered beginning with students entering the ninth grade during the 2011-2012 school year. During the period

under which the transition to end-of-course assessment instruments is made:

(1) for students entering a grade above the ninth grade during the 2011-2012 school year, the commissioner shall retain, administer, and use for campus and district ratings under Subchapter D the assessment instruments required by Section 39.023(a) or (c), as that section existed before amendment by S.B. No. 1031, Acts of the 80th Legislature, Regular Session, 2007; and

(2) the agency may defer releasing assessment instrument questions and answer keys as required by Section 39.023(e) to the extent necessary to develop additional assessment instruments.

(g) Rules adopted under Subsection (f) must require that each student who will be subject to the requirements of Subsection (a) is entitled to notice of the specific requirements applicable to the student. Notice under this subsection must be provided not later than the date the student enters the eighth grade. Subsection (f) and this subsection expire September 1, 2015.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 767, Sec. 3, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 397, Sec. 5, eff. Sept. 1, 1999.

Amended by:

Acts 2005, 79th Leg., Ch. 164, Sec. 6, eff. May 27, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 10, eff. September 1, 2007.

Sec. 39.026. LOCAL OPTION. In addition to the assessment instruments adopted by the agency and administered by the State Board of Education, a school district may adopt and administer criterion-referenced or norm-referenced assessment instruments, or

both, at any grade level. A norm-referenced assessment instrument adopted under this section must be economical, nationally recognized, and state-approved.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.0261. COLLEGE PREPARATION ASSESSMENTS. (a) In addition to the assessment instruments otherwise authorized or required by this subchapter:

(1) each school year and at state cost, a school district shall administer to students in the spring of the eighth grade an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument for the purpose of diagnosing the academic strengths and deficiencies of students before entrance into high school;

(2) each school year and at state cost, a school district shall administer to students in the 10th grade an established, valid, reliable, and nationally norm-referenced preliminary college preparation assessment instrument for the purpose of measuring a student's progress toward readiness for college and the workplace; and

(3) high school students in the spring of the 11th grade or during the 12th grade may select and take once, at state cost, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes.

(b) The agency shall:

(1) select and approve vendors of the specific assessment instruments administered under this section; and

(2) pay all fees associated with the administration of the assessment instrument from funds allotted under the Foundation

School Program, and the commissioner shall reduce the total amount of state funds allocated to each district from any source in the same manner described for a reduction in allotments under Section 42.253.

(c) The agency shall ensure that vendors are not paid under Subsection (b) for the administration of an assessment instrument to a student to whom the assessment instrument is not actually administered. The agency may comply with this subsection by any reasonable means, including by creating a refund system under which a vendor returns any payment made for a student who registered for the administration of an assessment instrument but did not appear for the administration.

(d) A vendor that administers an assessment instrument for a district under this section shall report the results of the assessment instrument to the agency. The agency shall:

(1) include a student's results on the assessment instrument in the electronic student records system established under Section 7.010; and

(2) ensure that a student and the student's parent receive a report of the student's results on the assessment instrument.

(e) Subsection (a) (3) does not prohibit a high school student in the spring of the 11th grade or during the 12th grade from selecting and taking, at the student's own expense, one of the valid, reliable, and nationally norm-referenced assessment instruments used by colleges and universities as part of their undergraduate admissions processes more than once.

(f) The provisions of this section apply only if the legislature appropriates funds for purposes of this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 11, eff.

September 1, 2007.

Sec. 39.0262. ADMINISTRATION OF DISTRICT-REQUIRED ASSESSMENT INSTRUMENTS IN CERTAIN SUBJECT AREAS. (a) In a subject area for which assessment instruments are administered under Section 39.023, a school district may not administer district-required assessment instruments to any student on more than 10 percent of the instructional days in any school year.

(b) The prohibition prescribed by this section does not apply to the administration of a college preparation assessment instrument, an advanced placement test, an international baccalaureate examination, or an assessment instrument administered under Section 39.023.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 11, eff. September 1, 2007.

Sec. 39.027. EXEMPTION. (a) A student may be exempted from the administration of an assessment instrument under:

(1) Section 39.023(a) or (b) if the student is eligible for a special education program under Section 29.003 and the student's individualized education program does not include instruction in the essential knowledge and skills under Section 28.002 at any grade level;

(2) Section 39.023(c) or (d) if the student is eligible for a special education program under Section 29.003 and:

(A) the student's individualized education program does not include instruction in the essential knowledge and skills under Section 28.002 at any grade level; or

(B) the assessment instrument, even with allowable modifications, would not provide an appropriate measure of the

student's achievement as determined by the student's admission, review, and dismissal committee;

(3) Section 39.023(a) or (1) for a period of up to one year after initial enrollment in a school in the United States if the student is of limited English proficiency, as defined by Section 29.052, and has not demonstrated proficiency in English as determined by the assessment system under Subsection (e); or

(4) Section 39.023(a) or (1) for a period of up to two years in addition to the exemption period authorized by Subdivision (3) if the student has received an exemption under Subdivision (3) and:

(A) is a recent unschooled immigrant; or

(B) is in a grade for which no assessment instrument in the primary language of the student is available.

(b) The State Board of Education shall adopt rules under which a dyslexic student who is not exempt under Subsection (a) may use procedures including oral examinations if appropriate or may be allowed additional time or the materials or technology necessary for the student to demonstrate the student's mastery of the competencies the assessment instruments are designed to measure.

(c) The commissioner shall develop and adopt a process for reviewing the exemption process of a school district or shared services arrangement that gives an exemption under Subsection (a) (1) as follows:

(1) to more than five percent of the students in the special education program, in the case of a district or shared services arrangement with an average daily attendance of at least 1,600;

(2) to more than 10 percent of the students in the special education program, in the case of a district or shared

services arrangement with an average daily attendance of at least 190 and not more than 1,599; or

(3) to the greater of more than 10 percent of the students in the special education program or to at least five students in the special education program, in the case of a district or shared services arrangement with an average daily attendance of not more than 189.

(d) Expired.

(e) The commissioner shall develop an assessment system that shall be used for evaluating the academic progress, including reading proficiency in English, of all students of limited English proficiency, as defined by Section 29.052. A student who is exempt from the administration of an assessment instrument under Subsection (a)(3) or (4) who achieves reading proficiency in English as determined by the assessment system developed under this subsection shall be administered the assessment instruments described by Sections 39.023(a) and (c). The performance under the assessment system developed under this subsection of students to whom Subsection (a)(3) or (4) applies shall be included in the academic excellence indicator system under Section 39.051, the performance report under Section 39.053, and the comprehensive annual report under Section 39.182. This information shall be provided in a manner that is disaggregated by the bilingual education or special language program, if any, in which the student is enrolled.

(f) In this section, "average daily attendance" is computed in the manner provided by Section 42.005.

(g) For purposes of this section, "recent unschooled immigrant" means an immigrant who initially enrolled in a school in the United States not more than 12 months before the date of the

administration of an assessment instrument under Section 39.023(a) or (1) and who, as a result of inadequate schooling outside of the United States, lacks the necessary foundation in the essential knowledge and skills of the curriculum prescribed under Section 28.002 as determined by the language proficiency assessment committee established under Section 29.063. For purposes of this subsection and to the extent authorized by federal law, a child's prior enrollment in a school in the United States shall be determined on the basis of documents and records required under Section 25.002(a).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 767, Sec. 4, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 397, Sec. 6, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 8, Sec. 2, eff. April 11, 2001; Acts 2001, 77th Leg., ch. 725, Sec. 3, eff. June 13, 2001; Acts 2003, 78th Leg., ch. 1276, Sec. 6.007, eff. Sept. 1, 2003.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1340, Sec. 4, eff. June 15, 2007.

Sec. 39.028. COMPARISON OF STATE RESULTS TO NATIONAL RESULTS. The state assessment program shall obtain nationally comparative results for the subject areas and grade levels for which criterion-referenced assessment instruments are adopted under Section 39.023.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.029. MIGRATORY CHILDREN. The State Board of Education by rule may provide alternate dates for the administration of the assessment instruments to a student who is a

migratory child as defined by 20 U.S.C. Section 6399. The alternate dates may be chosen following a consideration of migrant work patterns, and the dates selected may afford maximum opportunity for the students to be present when the assessment instruments are administered.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.030. CONFIDENTIALITY; PERFORMANCE REPORTS. (a) In adopting academic skills assessment instruments under this subchapter, the State Board of Education or a school district shall ensure the security of the instruments and tests in their preparation, administration, and grading. Meetings or portions of meetings held by the State Board of Education or a school district at which individual assessment instruments or assessment instrument items are discussed or adopted are not open to the public under Chapter 551, Government Code, and the assessment instruments or assessment instrument items are confidential.

(b) The results of individual student performance on academic skills assessment instruments administered under this subchapter are confidential and may be released only in accordance with the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g). However, overall student performance data shall be aggregated by ethnicity, sex, grade level, subject area, campus, and district and made available to the public, with appropriate interpretations, at regularly scheduled meetings of the board of trustees of each school district. The information may not contain the names of individual students or teachers.

(c) Repealed by Acts 2001, 77th Leg., ch. 767, Sec. 11, eff. June 13, 2001.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 767, Sec. 11, eff. June 13, 2001.

Sec. 39.0301. SECURITY IN ADMINISTRATION OF ASSESSMENT INSTRUMENTS. (a) The commissioner:

(1) shall establish procedures for the administration of assessment instruments adopted or developed under Section 39.023, including procedures designed to ensure the security of the assessment instruments; and

(2) may establish record retention requirements for school district records related to the security of assessment instruments.

(b) The commissioner may develop and implement statistical methods and standards for identifying potential violations of procedures established under Subsection (a) to ensure the security of assessment instruments adopted or developed under Section 39.023. In developing the statistical methods and standards, the commissioner may include indicators of:

(1) potential violations that are monitored annually; and

(2) patterns of inappropriate assessment practices that occur over time.

(c) The commissioner may establish one or more advisory committees to advise the commissioner and agency regarding the monitoring of assessment practices and the use of statistical methods and standards for identifying potential violations of assessment instrument security, including standards to be established by the commissioner for selecting school districts for investigation for a potential assessment security violation under Subsection (e). The commissioner may not appoint an agency

employee to an advisory committee established under this subsection.

(d) Any document created for the deliberation of an advisory committee established under Subsection (c) or any recommendation of such a committee is confidential and not subject to disclosure under Chapter 552, Government Code. Except as provided by Subsection (e), the statistical methods and standards adopted under this section and the results of applying those methods and standards are confidential and not subject to disclosure under Chapter 552, Government Code.

(e) The agency may conduct an investigation of a school district for a potential violation of assessment instrument security in accordance with the standards described by Subsection (c). Each school year, after completing all investigations of school districts selected for investigation, the agency shall disclose the identity of each district selected for investigation and the statistical methods and standards used to select the district.

(f) At any time, the commissioner may authorize the audit of a random sample of school districts to determine the compliance of the districts with procedures established under Subsection (a). The identity of each school district selected for audit under this subsection is confidential and not subject to disclosure under Chapter 552, Government Code, except that the agency shall disclose the identity of each district after completion of the audit.

(g) The state auditor may conduct a risk-based audit of a school district at any time to ensure the security of assessment instruments administered under Section 39.023 in the district.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 12, eff. September 1, 2007.

Sec. 39.0302. ISSUANCE OF SUBPOENAS. (a) During an agency investigation or audit of a school district under Section 39.0301(e) or (f), an accreditation investigation under Section 39.075(a)(8), or an investigation by the State Board for Educator Certification of an educator for an alleged violation of an assessment instrument security procedure established under Section 39.0301(a), the commissioner may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is located in this state.

(b) A subpoena may be served personally or by certified mail.

(c) If a person fails to comply with a subpoena, the commissioner, acting through the attorney general, may file suit to enforce the subpoena in a district court in this state. On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.

(d) All information and materials subpoenaed or compiled in connection with an investigation or audit described by Subsection (a):

(1) are confidential and not subject to disclosure under Chapter 552, Government Code; and

(2) are not subject to disclosure, discovery, subpoena, or other means of legal compulsion for release to any person other than:

(A) the commissioner or the State Board for Educator Certification, as applicable;

(B) agency employees or agents involved in the investigation, as applicable; and

(C) the office of the attorney general, the state

auditor's office, and law enforcement agencies.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 12, eff. September 1, 2007.

Sec. 39.0303. SECURE ASSESSMENT INSTRUMENTS; CRIMINAL PENALTY. (a) A person commits an offense if:

(1) the person intentionally discloses the contents of any portion of a secure assessment instrument developed or administered under this subchapter, including the answer to any item in the assessment instrument; and

(2) the disclosure affects or is likely to affect the individual performance of one or more students on the assessment instrument.

(b) An offense under this section is a Class C misdemeanor. Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 12, eff. September 1, 2007.

Sec. 39.0304. TRAINING IN ASSESSMENT INSTRUMENT ADMINISTRATION. (a) To ensure that each administration of assessment instruments under Section 39.023 is valid, reliable, and in compliance with the requirements of this subchapter, the commissioner may require training for school district employees involved in the administration of the assessment instruments.

(b) The training under Subsection (a) may include a qualifying component to ensure that school district employees involved in the administration of assessment instruments under Section 39.023 possess the necessary skills and knowledge required to administer the assessment instruments.

(c) The commissioner may adopt rules necessary to implement this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 12, eff. September 1, 2007.

Sec. 39.031. COST. (a) The cost of preparing, administering, or grading the assessment instruments shall be paid from the funds allotted under Section 42.152, and each district shall bear the cost in the same manner described for a reduction in allotments under Section 42.253. If a district does not receive an allotment under Section 42.152, the commissioner shall subtract the cost from the district's other foundation school fund allotments.

(b) The cost of releasing the question and answer keys under Section 39.023(e) shall be paid from amounts appropriated to the agency.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 767, Sec. 5, eff. Sept. 1, 1997.

Sec. 39.032. ASSESSMENT INSTRUMENT STANDARDS; CIVIL PENALTY. (a) A company or organization may not distribute to, sell to, or grade for the same school district the same form of an assessment instrument for more than three school years. A school district may not use the same form of an assessment instrument for more than three years.

(b) A company or organization that grades an assessment instrument shall report the results to the district and to the agency by campus and district and in comparison to state and national averages, unless the agency requests a report of the results in another form.

(c) State and national norms of averages shall be computed using data that are not more than six years old at the time the

assessment instrument is administered and that are representative of the group of students to whom the assessment instrument is administered. The standardization norms shall be based on a national probability sample that meets accepted standards for educational and psychological testing and shall be updated at least every six years using proven psychometric procedures approved by the State Board of Education.

(d) A company or organization that fails to comply with this section is liable to the state in an amount equal to three times the amount of actual damages. The actual damages are presumed to be at least equal to the amount charged by the company or organization to a school district for the assessment instrument, including any charge for grading the assessment instrument. The attorney general, a district attorney, or a county attorney may bring suit to collect the damages on the request of the State Board of Education or on the request of a student or a parent or guardian of a student to whom the assessment instrument was administered.

(e) The State Board of Education shall adopt rules for the implementation of this section and for the maintenance of the security of the contents of all assessment instruments.

(f) In this section, "assessment instrument" means a group-administered achievement test.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.033. VOLUNTARY ASSESSMENT OF PRIVATE SCHOOL STUDENTS. (a) Under an agreement with the agency, a private school may administer an assessment instrument adopted under this subchapter to students at the school.

(b) An agreement under this section must require the private school to provide to the commissioner the information described by

Section 39.051(b) and to maintain confidentiality in compliance with Section 39.030.

(c) A private school must reimburse the agency for the cost of administering an assessment instrument under this section. The State Board of Education shall determine the cost under this section. The per-student cost may not exceed the cost of administering the same assessment to a student enrolled in a public school district.

(d) In this section, "private school" means a school that:

(1) offers a general education to elementary or secondary students; and

(2) is not operated by a governmental entity.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

For expiration of Subsection (h), see that subsection.

Sec. 39.034. MEASURE OF ANNUAL IMPROVEMENT IN STUDENT ACHIEVEMENT. (a) The commissioner shall determine a method by which the agency may measure annual improvement in student achievement from one school year to the next on an assessment instrument required under this subchapter.

(b) For students of limited English proficiency, as defined by Section 29.052, the agency shall use a student's performance data on reading proficiency assessment instruments in English and one other language to calculate the student's progress toward dual language proficiency.

(c) The agency shall use a student's previous years' performance data on an assessment instrument required under this subchapter to determine the student's expected annual improvement. The agency shall report that expected level of annual improvement and the actual level of annual improvement achieved to

the district. The report must state whether the student fell below, met, or exceeded the agency's expectation for improvement.

(d) The agency shall determine the necessary annual improvement required each year for a student to be prepared to perform satisfactorily on the end-of-course assessment instruments required under this subchapter for graduation. The agency shall report the necessary annual improvement required to the district. Each year, the report must state whether the student fell below, met, or exceeded the necessary target for improvement.

(e) The agency shall report to each school district the comparisons made under this section. Each school district shall provide the comparisons to each teacher for all students who were:

(1) assessed on an assessment instrument; and

(2) taught by that teacher in the subject for which the assessment instrument was administered.

(f) The school a student attends shall provide a record of the comparisons made under this section and provided to the school under Subsection (e) in a written notice to the student's parents.

(g) To the extent practicable, the agency shall combine the report of the comparisons required under this section with the report of the student's performance on assessment instruments administered under Section 39.023.

(h) The commissioner shall implement this section beginning with the 2007-2008 school year. This subsection expires September 1, 2008.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.09, eff. May 31, 2006.

Amended by:

Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 13, eff. September 1, 2007.

Sec. 39.035. LIMITATION ON FIELD TESTING OF ASSESSMENT INSTRUMENTS. (a) Subject to Subsection (b), the agency may conduct field testing of questions for any assessment instrument administered under Section 39.023(a), (b), (c), (d), or (l) that is separate from the administration of the assessment instrument not more frequently than every other school year.

(b) Subsection (a) does not limit field testing necessary to develop new assessment instruments required under state or federal law.

(c) Before the beginning of each school year, the agency shall notify each school district regarding the required participation of the district in field testing activities during that school year.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 14, eff. September 1, 2007.

For expiration of this section, see Subsection (d)

Sec. 39.0351. FIELD TESTING STUDY. (a) The agency shall conduct a study of the sample size and sample procedures used in field testing of questions for assessment instruments administered under Section 39.023.

(b) The study required by Subsection (a) must also examine the feasibility of conducting field testing that is separate from the administration of an assessment instrument in the fall of the school year.

(c) Not later than December 1, 2008, the agency shall submit a report regarding the results of the study to the legislature.

(d) This section expires January 1, 2009.

Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 14, eff.

September 1, 2007.

Sec. 39.036. VERTICAL SCALE FOR CERTAIN ASSESSMENT INSTRUMENTS. (a) The agency shall develop a vertical scale for assessing student performance on assessment instruments administered under Sections 39.023(a)(1) and (2) in a manner that allows the agency to compare the performance of a student on the assessment instruments from one grade level to the next.

(b) The commissioner shall adopt rules necessary to implement this section.

(c) Not later than June 1, 2008, the agency shall develop a vertical scale as required by Subsection (a). The agency shall implement the vertical scale in the administration of assessment instruments under Sections 39.023(a)(1) and (2) beginning with the 2008-2009 school year. This subsection expires September 1, 2009. Added by Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 14, eff. September 1, 2007.

Sec. 39.037. INTERNATIONAL ASSESSMENT INSTRUMENT PROGRAM.

(a) In this section, "program" means the international assessment instrument program.

(b) The commissioner shall establish a program under which a participating school district administers international assessment instruments to students in the district.

(c) A school district may apply to the commissioner to participate in the program. The commissioner shall select for participation school districts from both rural and urban areas of the state. If necessary, the commissioner may require a school district to participate in the program.

(d) A participating school district shall administer

international assessment instruments as required by the commissioner.

(e) In administering the program, the commissioner shall:

(1) compare the performance on the international assessment instruments of students in this state with students of the same grade level in other countries;

(2) compare the international assessment instruments with state assessment instruments and state educational goals; and

(3) provide professional development for educators in the interpretation and use of results of the international assessment instruments.

(f) Each biennium the commissioner may use funds appropriated for the Foundation School Program to provide funding for the program in an amount not to exceed \$2 million.

(g) Not later than January 1 of each odd-numbered year, the commissioner shall prepare and deliver a report describing the results of student performance on the international assessment instruments to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, and each school district.

(h) The commissioner may adopt rules necessary to administer this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 754, Sec. 1, eff. June 15, 2007.

SUBCHAPTER C. PERFORMANCE INDICATORS

Sec. 39.051. ACADEMIC EXCELLENCE INDICATORS. (a) The State Board of Education shall adopt a set of indicators of the quality of learning on a campus. The State Board of Education biennially shall review the indicators for the consideration of appropriate

revisions.

(b) Performance on the indicators adopted under this section shall be compared to state-established standards. The degree of change from one school year to the next in performance on each indicator adopted under this section shall also be considered. The indicators must be based on information that is disaggregated by race, ethnicity, gender, and socioeconomic status and must include:

(1) the results of assessment instruments required under Sections 39.023(a), (c), and (l), aggregated by grade level and subject area;

(2) dropout rates, including dropout rates and district completion rates for grade levels 9 through 12, computed in accordance with standards and definitions adopted by the National Center for Education Statistics of the United States Department of Education;

(3) high school graduation rates, computed in accordance with standards and definitions adopted in compliance with the No Child Left Behind Act of 2001 (Pub. L. No. 107-110);

(4) student attendance rates;

(5) the percentage of graduating students who attain scores on the questions developed for end-of-course assessment instruments under Section 39.0233(a) that are equivalent to a passing score on the assessment instrument required under Section 51.3062;

(6) the percentage of graduating students who meet the course requirements established for the recommended high school program by State Board of Education rule;

(7) the results of the Scholastic Assessment Test (SAT), the American College Test (ACT), articulated postsecondary degree programs described by Section 61.852, and certified workforce

training programs described by Chapter 311, Labor Code;

(8) the percentage of students, aggregated by grade level, provided accelerated instruction under Section 28.0211(c), the results of assessments administered under that section, the percentage of students promoted through the grade placement committee process under Section 28.0211, the subject of the assessment instrument on which each student failed to perform satisfactorily, and the performance of those students in the school year following that promotion on the assessment instruments required under Section 39.023;

(9) for students who have failed to perform satisfactorily on an assessment instrument required under Section 39.023(a) or (c), the numerical progress of those students grouped by percentage on subsequent assessment instruments required under those sections, aggregated by grade level and subject area;

(10) the percentage of students exempted, by exemption category, from the assessment program generally applicable under this chapter;

(11) the percentage of students of limited English proficiency exempted from the administration of an assessment instrument under Sections 39.027(a) (3) and (4);

(12) the percentage of students in a special education program under Subchapter A, Chapter 29, assessed through assessment instruments developed or adopted under Section 39.023(b);

(13) the measure of progress toward preparation for postsecondary success; and

(14) the measure of progress toward dual language proficiency under Section 39.034(b), for students of limited English proficiency, as defined by Section 29.052.

(b-1) Performance on the indicators described by Subsections

(b) (1), (2), (3), (8), (9), and (14) must be based on longitudinal student data that is disaggregated by the bilingual education or special language program, if any, in which students of limited English proficiency, as defined by Section 29.052, are or former students of limited English proficiency were enrolled. If a student described by this subsection is not or was not enrolled in specialized language instruction, the number and percentage of those students shall be provided.

(c) Performance on the indicator under Subsection (b) (1) shall be compared to state standards, required improvement, and comparable improvement. The state standard shall be established by the commissioner. Required improvement is defined as the progress necessary for the campus or district to meet state standards and for its students to meet exit requirements as defined by the commissioner. Comparable improvement is derived by measuring campuses and districts against a profile developed from a total state student performance database which exhibits substantial equivalence to the characteristics of students served by the campus or district, including past academic performance, socioeconomic status, ethnicity, and limited English proficiency.

(d) Annually, the commissioner shall define exemplary, recognized, and unacceptable performance for each academic excellence indicator included under Subsections (b) (1) through (7) and shall project the standards for each of those levels of performance for succeeding years. For the indicator under Subsection (b) (8), the commissioner shall define exemplary, recognized, and unacceptable performance based on student performance for the period covering both the current and preceding academic years. In defining exemplary, recognized, and unacceptable performance for the indicators under Subsections

(b) (2) and (4), the commissioner may not consider as a dropout or as a student who has failed to attend school a student whose failure to attend school results from:

(1) the student's expulsion under Section 37.007; and

(2) as applicable:

(A) adjudication as having engaged in delinquent conduct or conduct indicating a need for supervision, as defined by Section 51.03, Family Code; or

(B) conviction of and sentencing for an offense under the Penal Code.

(e) Each school district shall cooperate with the agency in determining whether a student is a dropout under this section.

(f) The indicator under Subsection (b) (1) must include the results of assessment instruments required under Section 39.023(b).

(g) The commissioner by rule shall adopt accountability measures to be used in assessing the progress of students who have failed to perform satisfactorily in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (1).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 767, Sec. 6, eff. Sept. 1, 1997; Acts 1999, 76th Leg., ch. 396, Sec. 2.20, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 397, Sec. 7, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1422, Sec. 3, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 8, Sec. 3, eff. April 11, 2001; Acts 2001, 77th Leg., ch. 725, Sec. 4, 5, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 834, Sec. 10, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 4.007, 4.008, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 201, Sec. 26, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 433, Sec. 2, eff. June 20, 2003; Acts 2003, 78th Leg., ch.

805, Sec. 1, eff. Sept. 1, 2003.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.10, eff. May 31, 2006.

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.11, eff. May 31, 2006.

Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 15, eff. September 1, 2007.

Acts 2007, 80th Leg., R.S., Ch. 1340, Sec. 5, eff. June 15, 2007.

Sec. 39.052. CAMPUS REPORT CARD. (a) Each school year, the agency shall prepare and distribute to each school district a report card for each campus. The campus report cards must be based on the most current data available disaggregated by student groups.

Campus performance must be compared to previous campus and district performance, current district performance, state established standards, and comparable campus group performance.

(b) The report card shall include the following information:

(1) where applicable, the academic excellence indicators adopted under Sections 39.051(b)(1) through (10);

(2) average class size by grade level and subject;

(3) the administrative and instructional costs per student, computed in a manner consistent with Section 44.0071; and

(4) the district's instructional expenditures ratio and instructional employees ratio computed under Section 44.0071, and the statewide average of those ratios, as determined by the commissioner.

(c) The commissioner shall adopt rules requiring dissemination of the information required under Subsection (b)(4)

and appropriate class size and student performance portions of campus report cards annually to the parent, guardian, conservator, or other person having lawful control of each student at the campus. On written request, the school district shall provide a copy of a campus report card to any other party.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 2.21, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1514, Sec. 1, eff. June 19, 1999;

Acts 2001, 77th Leg., ch. 1420, Sec. 4.009, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1269, Sec. 2, eff. Sept. 1, 2003.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.12, eff. May 31, 2006.

Sec. 39.053. PERFORMANCE REPORT. (a) Each board of trustees shall publish an annual report describing the educational performance of the district and of each campus in the district that includes uniform student performance and descriptive information as determined under rules adopted by the commissioner. The annual report must also include:

(1) campus performance objectives established under Section 11.253 and the progress of each campus toward those objectives, which shall be available to the public;

(2) the performance rating for the district as provided under Section 39.072(a) and the performance rating of each campus in the district as provided under Section 39.072(c);

(3) the district's current special education compliance status with the agency;

(4) a statement of the number, rate, and type of violent or criminal incidents that occurred on each district campus, to the

extent permitted under the Family Educational Rights and Privacy Act of 1974 (20 U.S.C. Section 1232g);

(5) information concerning school violence prevention and violence intervention policies and procedures that the district is using to protect students; and

(6) the findings that result from evaluations conducted under the Safe and Drug-Free Schools and Communities Act of 1994 (20 U.S.C. Section 7101 et seq.) and its subsequent amendments; and

(7) information received under Section 51.403(e) for each high school campus in the district, presented in a form determined by the commissioner.

(b) Supplemental information to be included in the reports shall be determined by the board of trustees. Performance information in the annual reports on the indicators established under Section 39.051 and descriptive information required by this section shall be provided by the agency.

(c) The board of trustees shall hold a hearing for public discussion of the report. The board of trustees shall give notice of the hearing to property owners in the district and parents, guardians, conservators, and other persons having lawful control of a district student. The notification must include notice to a newspaper of general circulation in the district and notice to electronic media serving the district. After the hearing the report shall be widely disseminated within the district in a manner to be determined under rules adopted by the commissioner.

(d) The report must also include a comparison provided by the agency of:

(1) the performance of each campus to its previous performance and to state-established standards;

(2) the performance of each district to its previous performance and to state-established standards; and

(3) the performance of each campus or district to comparable improvement.

(e) The report may include the following information:

(1) student information, including total enrollment, enrollment by ethnicity, socioeconomic status, and grade groupings and retention rates;

(2) financial information, including revenues and expenditures;

(3) staff information, including number and type of staff by gender, ethnicity, years of experience, and highest degree held, teacher and administrator salaries, and teacher turnover;

(4) program information, including student enrollment by program, teachers by program, and instructional operating expenditures by program; and

(5) the number of students placed in a disciplinary alternative education program under Chapter 37.

(f) The State Board of Education by rule shall authorize the combination of this report with other reports and financial statements and shall restrict the number and length of reports that school districts, school district employees, and school campuses are required to prepare.

(g) The report must include a statement of the amount, if any, of the school district's unencumbered surplus fund balance as of the last day of the preceding fiscal year and the percentage of the preceding year's budget that the surplus represents.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 510, Sec. 2, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1417, Sec. 2, eff. June 19, 1999;

Acts 2001, 77th Leg., ch. 725, Sec. 6, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 834, Sec. 11, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1420, Sec. 4.010, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1055, Sec. 24, eff. June 20, 2003.

Sec. 39.054. USES OF PERFORMANCE REPORT. The information required to be reported under Section 39.053 shall be:

(1) the subject of public hearings or meetings required under Sections 11.252, 11.253, and 39.053;

(2) a primary consideration in district and campus planning; and

(3) a primary consideration of:

(A) the State Board of Education in the evaluation of the performance of the commissioner;

(B) the commissioner in the evaluation of the performance of the directors of the regional education service centers;

(C) the board of trustees of a school district in the evaluation of the performance of the superintendent of the district; and

(D) the superintendent in the evaluation of the performance of the district's campus principals.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.055. ANNUAL AUDIT OF DROPOUT RECORDS; REPORT.

(a) The commissioner shall develop a process for auditing school district dropout records electronically. The commissioner shall also develop a system and standards for review of the audit or use systems already available at the agency. The system must be designed to identify districts that are at high risk of having

inaccurate dropout records and that, as a result, require on-site monitoring of dropout records. If the electronic audit of a district's dropout records indicates that a district is not at high risk of having inaccurate dropout records, the district may not be subject to on-site monitoring under this subsection. If the risk-based system indicates that a district is at high risk of having inaccurate dropout records, the district is entitled to an opportunity to respond to the commissioner's determination before on-site monitoring may be conducted. The district must respond not later than the 30th day after the date the commissioner notifies the district of the commissioner's determination. If the district's response does not change the commissioner's determination that the district is at high risk of having inaccurate dropout records or if the district does not respond in a timely manner, the commissioner shall order agency staff to conduct on-site monitoring of the district's dropout records.

(b) to (d) Repealed by Acts 2003, 78th Leg., ch. 201, Sec. 61(1); Acts 2003, 78th Leg., ch. 903, Sec. 4.

(e) The commissioner shall notify the board of trustees of a school district of any objection the commissioner has to the district's dropout data, any violation of sound accounting practices or of a law or rule revealed by the data, or any recommendation by the commissioner concerning the data. If the data reflect that a penal law has been violated, the commissioner shall notify the county attorney, district attorney, or criminal district attorney, as appropriate, and the attorney general. The commissioner is entitled to access to all district records the commissioner considers necessary or appropriate for the review, analysis, or approval of district dropout data.

Added by Acts 2001, 77th Leg., ch. 834, Sec. 12, eff. Sept. 1,

2001. Amended by Acts 2003, 78th Leg., ch. 201, Sec. 27, 61(1), eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 903, Sec. 1, 4, eff. Sept. 1, 2003.

SUBCHAPTER D. ACCREDITATION STATUS

Sec. 39.071. ACCREDITATION. (a) Accreditation of a school district is determined in accordance with this section. The commissioner by rule shall define the following accreditation statuses:

- (1) accredited;
- (2) accredited-warned; and
- (3) accredited-probation.

(b) Each year, the commissioner shall determine the accreditation status of each school district. In determining accreditation status, the commissioner:

(1) shall evaluate and consider the performance of the district under:

(A) the academic accountability system under Section 39.072; and

(B) the financial accountability rating system under Subchapter I; and

(2) may consider:

(A) the district's compliance with statutory requirements and requirements imposed by rule of the commissioner or State Board of Education under specific statutory authority that relate to:

(i) reporting data through the Public Education Information Management System (PEIMS) or other reports required by state or federal law or court order;

(ii) the high school graduation requirements

under Section 28.025; or

(iii) an item listed under Sections 7.056(e) (3) (C)-(I) that applies to the district;

(B) the effectiveness of the district's programs for special populations; and

(C) the effectiveness of the district's career and technology program.

(c) Based on a school district's performance under Subsection (b), the commissioner shall:

(1) assign a district an accreditation status; or

(2) revoke the accreditation of the district and order closure of the district under this subchapter.

(d) The commissioner shall notify a school district that receives an accreditation status of accredited-warned or accredited-probation that the performance of the district is below a standard required under this section. The commissioner shall require the district to notify the parents of students enrolled in the district and property owners in the district of the district's accreditation status and the implications of that accreditation status.

(e) A school district that is not accredited may not receive funds from the agency or hold itself out as operating a public school of this state.

(f) This chapter may not be construed to invalidate a diploma awarded, course credit earned, or grade promotion granted by a school district before the commissioner revoked the district's accreditation.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.13, eff. May 31,

2006.

Sec. 39.072. ACCREDITATION STANDARDS. (a) The State Board of Education shall adopt rules to evaluate the performance of school districts and to assign to each district a performance rating as follows:

(1) exemplary (meets or exceeds state exemplary standards);

(2) recognized (meets or exceeds required improvement and within 10 percent of state exemplary standards);

(3) academically acceptable (below the exemplary and recognized standards but exceeds the academically unacceptable standards); or

(4) academically unacceptable (below the state clearly unacceptable performance standard and does not meet required improvement).

(b) The academic excellence indicators adopted under Sections 39.051(b)(1) through (8) and the district's current special education compliance status with the agency shall be the main considerations of the agency in the rating of the district under this section. Additional criteria in the rules may include consideration of:

(1) compliance with statutory requirements and requirements imposed by rule of the State Board of Education under specific statutory authority that relate to:

(A) reporting data through the Public Education Information Management System (PEIMS);

(B) the high school graduation requirements under Section 28.025; or

(C) an item listed in Sections 7.056(e)(3)(C)-(I)

that applies to the district;

(2) the effectiveness of the district's programs for special populations; and

(3) the effectiveness of the district's career and technology programs.

(c) The agency shall evaluate against state standards and shall, not later than August 1 of each year, report the performance of each campus in a district and each open-enrollment charter school on the basis of the campus's performance on the indicators adopted under Sections 39.051(b)(1) through (8). Consideration of the effectiveness of district programs under Subsection (b)(2) or (3) must be based on data collected through the Public Education Information Management System for purposes of accountability under this chapter and include the results of assessments required under Section 39.023.

(d) Notwithstanding any other provision of this code, for purposes of determining the performance of a school district under this chapter, including the accreditation status of the district, a student confined by court order in a residential program or facility operated by or under contract with the Texas Youth Commission, Texas Juvenile Probation Commission, or any other governmental entity, including a juvenile board, is not considered to be a student of the school district in which the program or facility is physically located. The performance of such a student on an assessment instrument or other academic excellence indicator adopted under Section 39.051 shall be determined, reported, and considered separately from the performance of students attending a school of the district in which the program or facility is physically located.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 2.22, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1417, Sec. 3, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 1420, Sec. 4.011, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 342, Sec. 4, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 694, Sec. 1, eff. June 20, 2003; Acts 2003, 78th Leg., ch. 1249, Sec. 1, eff. June 20, 2003.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.14, eff. May 31, 2006.

Acts 2007, 80th Leg., R.S., Ch. 746, Sec. 1, eff. June 15, 2007.

Sec. 39.0721. GOLD PERFORMANCE RATING PROGRAM. (a) In addition to district and campus performance ratings reported under Section 39.072, the commissioner shall develop a gold performance rating program based on enhanced performance. The agency shall administer the program.

(b) Under the gold performance rating program, a district or campus rated exemplary under Section 39.072 is eligible for an exemplary gold rating, a district or campus rated recognized is eligible for a recognized gold rating, and a district or campus rated academically acceptable is eligible for an academically acceptable gold rating.

(c) The performance standards on which a gold performance rating is based should include:

(1) student proficiency on:

(A) assessment instruments administered under Sections 39.023(a), (c), and (1); and

(B) other measures of proficiency determined by the commissioner;

(2) student performance on one or more nationally recognized norm-referenced assessment instruments;

(3) improvement in student performance;

(4) in the case of middle or junior high school campuses, student proficiency in mathematics, including algebra; and

(5) in the case of high school campuses:

(A) the extent to which graduating students are academically prepared to attend institutions of higher education;

(B) the percentage of students who take advanced placement tests and student performance on those tests; and

(C) the percentage of students who take and successfully complete advanced academic courses or college-level course work offered through dual credit programs provided under agreements between high schools and institutions of higher education.

(d) The commissioner may adopt rules as necessary to implement and administer this section.

Added by Acts 2001, 77th Leg., ch. 834, Sec. 13, eff. Sept. 1, 2001.

Sec. 39.073. DETERMINING ACCREDITATION STATUS. (a) The agency shall annually review the performance of each district and campus on the indicators adopted under Sections 39.051(b)(1) through (8) and determine if a change in the accreditation status of the district is warranted. The commissioner may determine how all indicators adopted under Section 39.051(b) may be used to determine accountability ratings and to select districts and campuses for acknowledgment.

(b) Each annual review shall include an analysis of the

indicators under Sections 39.051(b)(1) through (8) to determine district and campus performance in relation to:

- (1) standards established for each indicator;
- (2) required improvement as defined under Section 39.051(c); and
- (3) comparable improvement as defined by Section 39.051(c).

(c) A district's accreditation rating may be raised or lowered based on the district's performance or may be lowered based on the unacceptable performance of one or more campuses in the district.

(d) The commissioner shall notify a district that is rated academically unacceptable that the performance of the district or a campus in the district is below each standard under Subsection (b) and shall require the district to notify property owners and parents in the district of the lowered accreditation rating and its implication.

(e) In determining a district's accreditation rating, the agency shall consider:

- (1) the district's current special education compliance status with the agency; and
- (2) the progress of students who have failed to perform satisfactorily in the preceding school year on an assessment instrument required under Section 39.023(a), (c), or (l).

(f) In the computation of dropout rates under Section 39.051(b)(2), a student who is released from a juvenile pre-adjudication secure detention facility or juvenile post-adjudication secure correctional facility and fails to enroll in school or a student who leaves a residential treatment center after receiving treatment for fewer than 85 days and fails to enroll in

school may not be considered to have dropped out from the campus or school district serving the facility or center unless that campus or district is the one to which the student is regularly assigned. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 2.23, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 1417, Sec. 4, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 725, Sec. 7, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1287, Sec. 1, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 1504, Sec. 26, eff. Sept. 1, 2001.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.15, eff. May 31, 2006.

Sec. 39.074. ON-SITE INVESTIGATIONS. (a) The commissioner may:

(1) direct the agency to conduct on-site investigations at any time to answer any questions concerning a program, including special education, required by federal law or for which the district receives federal funds; and

(2) raise or lower the performance rating as a result of the investigation.

(b) The commissioner shall determine the frequency of on-site investigations by the agency according to annual comprehensive analyses of student performance and equity in relation to the academic excellence indicators adopted under Section 39.051.

(c) In making an on-site accreditation investigation, the investigators shall obtain information from administrators, teachers, and parents of students enrolled in the district. The investigation may not be closed until information is obtained from each of those sources. The State Board of Education shall adopt

rules for:

(1) obtaining information from parents and using that information in the investigator's report; and

(2) obtaining information from teachers in a manner that prevents a campus or district from screening the information.

(d) The agency shall give written notice to the superintendent and the board of trustees of any impending investigation of the district's accreditation.

(e) If an annual review indicates low performance on one or more of the indicators under Sections 39.051(b)(1) through (8) of one or more campuses in a district, the agency may conduct an on-site evaluation of those campuses only.

(f) The investigators shall report orally and in writing to the board of trustees of the district and, as appropriate, to campus administrators and shall make recommendations concerning any necessary improvements or sources of aid such as regional education service centers.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 2.24, eff. Sept. 1, 1999.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.16, eff. May 31, 2006.

Sec. 39.075. SPECIAL ACCREDITATION INVESTIGATIONS. (a) The commissioner shall authorize special accreditation investigations to be conducted:

(1) when excessive numbers of absences of students eligible to be tested on state assessment instruments are determined;

(2) when excessive numbers of allowable exemptions from the required state assessment instruments are determined;

(3) in response to complaints submitted to the agency with respect to alleged violations of civil rights or other requirements imposed on the state by federal law or court order;

(4) in response to established compliance reviews of the district's financial accounting practices and state and federal program requirements;

(5) when extraordinary numbers of student placements in disciplinary alternative education programs, other than placements under Sections 37.006 and 37.007, are determined;

(6) in response to an allegation involving a conflict between members of the board of trustees or between the board and the district administration if it appears that the conflict involves a violation of a role or duty of the board members or the administration clearly defined by this code;

(7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b);

(8) in response to an allegation regarding or an analysis using a statistical method result indicating a possible violation of an assessment instrument security procedure established under Section 39.0301, including for the purpose of investigating or auditing a school district under that section; or

(9) as the commissioner otherwise determines necessary.

(b) If the agency's findings in an investigation under Subsection (a)(6) indicate that the board of trustees has observed a lawfully adopted policy, the agency may not substitute its judgment for that of the board.

(b-1) The commissioner may authorize special accreditation investigations to be conducted in response to repeated complaints submitted to the agency concerning imposition of excessive paperwork requirements on classroom teachers.

Text of subsec. (c) as amended by Acts 1999, ch. 396, Sec. 2.25

(c) Based on the results of a special accreditation investigation, the commissioner may:

- (1) take appropriate action under Subchapter G;
- (2) lower the district's accreditation rating; or
- (3) take action under both Subdivisions (1) and (2).

Text of subsec. (c) as amended by Acts 1999, ch. 931, Sec. 4

(c) Based on the results of a special accreditation investigation, the commissioner may lower the district's accreditation rating and may take appropriate action under Subchapter G. Regardless of whether the commissioner lowers the district's accreditation rating, the commissioner may take action under Sections 39.131(a)(1) through (8) if the commissioner determines that the action is necessary to improve any area of a district's performance, including the district's financial accounting practices.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 396, Sec. 2.25, eff. Sept. 1, 1999; Acts 1999, 76th Leg., ch. 931, Sec. 4, eff. Aug. 30, 1999; Acts 2001, 77th Leg., ch. 1504, Sec. 28, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 433, Sec. 3, eff. Sept. 1, 2004.

Amended by:

Acts 2005, 79th Leg., Ch. 723, Sec. 2, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1312, Sec. 16, eff. September 1, 2007.

Sec. 39.076. CONDUCT OF INVESTIGATIONS. (a) The agency shall adopt written procedures for conducting on-site investigations under this subchapter. The agency shall make the procedures available to the complainant, the alleged violator, and the public. Agency staff must be trained in the procedures and must follow the procedures in conducting the investigation.

(b) After completing an investigation, the agency shall present preliminary findings to any person the agency finds has violated a law, rule, or policy. Before issuing a report with its final findings, the agency must provide a person the agency finds has violated a law, rule, or policy an opportunity for an informal review by the commissioner or a designated hearing examiner.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER E. SUCCESSFUL SCHOOL AWARDS

Sec. 39.091. CREATION OF SYSTEM. The Texas Successful Schools Awards System is created to recognize and reward those schools and school districts that demonstrate progress or success in achieving the education goals of the state.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.092. TYPES OF AWARDS. (a) The governor may present a financial award to the schools or districts that the commissioner determines have demonstrated the highest levels of sustained success or the greatest improvement in achieving the education goals. For each student in average daily attendance, each of those

schools or districts is entitled to an amount set for the award for which the school or district is selected by the commissioner, subject to any limitation set by the commissioner on the total amount that may be awarded to a school or district.

(b) The governor may present proclamations or certificates to additional schools and districts determined to have met or exceeded the education goals.

(c) The commissioner may establish additional categories of awards and award amounts for a school or district determined to be successful under Subsection (a) or (b) that are contingent on the school's or district's involvement with paired, lower-performing schools.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.093. AWARDS. (a) The criteria that the commissioner shall use to select successful schools and districts must be related to the goals in Section 4.002 and must include consideration of performance on the academic excellence indicators adopted under Section 39.051. For purposes of selecting schools and districts under Section 39.092(a), each school's performance shall be compared to state standards and to its previous performance.

(b) The commissioner shall select annually schools and districts qualified to receive successful school awards for their performance and report the selections to the governor and the State Board of Education.

(c) The agency shall notify each school district of the manner in which the district or a school in the district may qualify for a successful school award.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.094. USE OF AWARDS. (a) In determining the use of a monetary award received under this subchapter, a school or district shall give priority to academic enhancement purposes. The award may not be used for any purpose related to athletics, and it may not be used to substitute for or replace funds already in the regular budget for a school or district.

(b) The campus-level committee established under Section 11.253 shall determine the use of the funds awarded to a school under this subchapter. The professional staff of the district shall determine the use of the funds awarded to the school district under this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.095. FUNDING. The award system may be funded by donations, grants, or legislative appropriations. The commissioner may solicit and receive grants and donations for the purpose of making awards under this subchapter. A small portion of the award funds may be used by the commissioner to pay for the costs associated with sponsoring a ceremony to recognize or present awards to schools or districts under this subchapter. The donations, grants, or legislative appropriations shall be accounted for and distributed by the agency. The awards are subject to audit requirements established by the State Board of Education.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.096. CONFIDENTIALITY. All information and reports received by the commissioner under this subchapter from schools or school districts deemed confidential under Chapter 552, Government Code, are confidential and may not be disclosed in any public or

private proceeding.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

SUBCHAPTER F. ADDITIONAL REWARDS

Sec. 39.111. RECOGNITION AND REWARDS. The State Board of Education shall develop a plan for recognizing and rewarding school districts and campuses that are rated as exemplary or recognized and for developing a network for sharing proven successful practices statewide and regionally. The reward may be used to provide educators with summer stipends to develop curricula based on the cited successful strategies. The educators may copyright the curricula they develop.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.112. EXCELLENCE EXEMPTIONS. (a) Except as provided by Subsection (b), a school campus or district that is rated exemplary is exempt from requirements and prohibitions imposed under this code including rules adopted under this code.

(b) A school campus or district is not exempt under this section from:

(1) a prohibition on conduct that constitutes a criminal offense;

(2) requirements imposed by federal law or rule, including requirements for special education or bilingual education programs; or

(3) a requirement, restriction, or prohibition relating to:

(A) curriculum essential knowledge and skills under Section 28.002 or minimum graduation requirements under Section 28.025;

(B) public school accountability as provided by Subchapters B, C, D, and G;

(C) extracurricular activities under Section 33.081;

(D) health and safety under Chapter 38;

(E) competitive bidding under Subchapter B, Chapter 44;

(F) elementary school class size limits, except as provided by Subsection (d) or Section 25.112;

(G) removal of a disruptive student from the classroom under Subchapter A, Chapter 37;

(H) at risk programs under Subchapter C, Chapter 29;

(I) prekindergarten programs under Subchapter E, Chapter 29;

(J) rights and benefits of school employees;

(K) special education programs under Subchapter A, Chapter 29; or

(L) bilingual education programs under Subchapter B, Chapter 29.

(c) The agency shall monitor and evaluate deregulation of a school campus or district under this section and Section 7.056.

(d) The commissioner may exempt an exemplary school campus from elementary class size limits under this section if the school campus submits to the commissioner a written plan showing steps that will be taken to ensure that the exemption from the class size limits will not be harmful to the academic achievement of the students on the school campus. The commissioner shall review achievement levels annually. The exemption remains in effect until the commissioner determines that achievement levels of the campus

have declined.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.113. RECOGNITION OF HIGH SCHOOL COMPLETION AND SUCCESS AND COLLEGE READINESS PROGRAMS. (a) The agency shall:

(1) develop standards for evaluating the success and cost-effectiveness of high school completion and success and college readiness programs implemented under Section 39.114;

(2) provide guidance for school districts and campuses in establishing and improving high school completion and success and college readiness programs implemented under Section 39.114; and

(3) develop standards for selecting and methods for recognizing school districts and campuses that offer exceptional high school completion and success and college readiness programs under Section 39.114.

(b) The commissioner may adopt rules for the administration of this section.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 5.06, eff. May 31, 2006.

For expiration of Subsec. (b), see that subsection.

Sec. 39.114. HIGH SCHOOL ALLOTMENT. (a) Except as provided by Subsection (b), a school district or campus must use funds allocated under Section 42.2516(b) (3) to:

(1) implement or administer a college readiness program that provides academic support and instruction to prepare underachieving students for entrance into an institution of higher education;

(2) implement or administer a program that encourages

students to pursue advanced academic opportunities, including early college high school programs and dual credit, advanced placement, and international baccalaureate courses;

(3) implement or administer a program that provides opportunities for students to take academically rigorous course work, including four years of mathematics and four years of science at the high school level;

(4) implement or administer a program, including online course support and professional development, that aligns the curriculum for grades six through 12 with postsecondary curriculum and expectations; or

(5) implement or administer other high school completion and success initiatives in grades six through 12 approved by the commissioner.

(b) A school district may use funds allocated under Section 42.2516(b) (3) on any instructional program in grades six through 12 other than an athletic program if:

(1) the district is recognized as exceptional by the commissioner under the academic accountability indicator adopted under Section 39.051(b) (13); and

(2) the district's completion rates for grades nine through 12 meet or exceed completion rate standards required by the commissioner to achieve a rating of exemplary under Section 39.072.

(b-1) Subsection (b) applies beginning with the 2008-2009 school year. This subsection expires September 1, 2009.

(c) An open-enrollment charter school is entitled to an allotment under this section in the same manner as a school district.

(d) The commissioner shall adopt rules to administer this section, including rules related to the permissible use of funds

allocated under this section to an open-enrollment charter school.
Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 5.06, eff. May
31, 2006.

Sec. 39.115. HIGH SCHOOL INNOVATION GRANT INITIATIVE.

(a) From funds appropriated for that purpose, the commissioner may establish a grant program under which grants are awarded to secondary campuses and school districts to support:

(1) the implementation of innovative high school improvement programs that are based on the best available research regarding high school reform, dropout prevention, and preparing students for postsecondary coursework or employment;

(2) enhancing education practices that have been demonstrated by significant evidence of effectiveness; and

(3) the alignment of grants and programs to the strategic plan adopted under Section 39.357.

(b) Before awarding a grant under this section, the commissioner may require a campus or school district to:

(1) obtain local matching funds; or

(2) meet other conditions, including developing a personal graduation plan under Section 28.0212 for each student enrolled at the campus or in a district high school.

(c) The commissioner may:

(1) accept gifts, grants, or donations from a private foundation to implement a grant program under this section; and

(2) coordinate gifts, grants, or donations with other available funding to implement a grant program under this section.

(d) The commissioner may use funds appropriated under this section to support technical assistance services for school districts and open-enrollment charter schools to implement a high

school improvement program under this section.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 13, eff. June 15, 2007.

Sec. 39.116. INITIATIVE FOR RETAINING QUALITY EDUCATORS. Notwithstanding Section 39.1324(b), a school district, to assist in preventing dropouts and disruptions that may result from certain mandatory sanctions, may retain at a campus a principal who has been employed at the campus as a principal during the two-year period described by Section 39.1324(a) if the students enrolled at the campus have demonstrated a pattern of significant academic improvement.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 13, eff. June 15, 2007.

SUBCHAPTER G. ACCREDITATION SANCTIONS

Sec. 39.131. SANCTIONS FOR DISTRICTS. (a) If a school district does not satisfy the accreditation criteria under Section 39.071, the academic performance standards under Section 39.072, or any financial accountability standard as determined by commissioner rule, the commissioner shall take any of the following actions to the extent the commissioner determines necessary:

(1) issue public notice of the deficiency to the board of trustees;

(2) order a hearing conducted by the board of trustees of the district for the purpose of notifying the public of the unacceptable performance, the improvements in performance expected by the agency, and the sanctions that may be imposed under this section if the performance does not improve;

(3) order the preparation of a student achievement

improvement plan that addresses each academic excellence indicator for which the district's performance is unacceptable, the submission of the plan to the commissioner for approval, and implementation of the plan;

(4) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees of the district and the superintendent shall appear and explain the district's low performance, lack of improvement, and plans for improvement;

(5) arrange an on-site investigation of the district;

(6) appoint an agency monitor to participate in and report to the agency on the activities of the board of trustees or the superintendent;

(7) appoint a conservator to oversee the operations of the district;

(8) appoint a management team to direct the operations of the district in areas of unacceptable performance or require the district to obtain certain services under a contract with another person;

(9) if a district has a current accreditation status of accredited-warned or accredited-probation, is rated academically unacceptable, or fails to satisfy financial accountability standards as determined by commissioner rule, appoint a board of managers to exercise the powers and duties of the board of trustees;

(10) if for two consecutive school years, including the current school year, a district has received an accreditation status of accredited-warned or accredited-probation, has been rated academically unacceptable, or has failed to satisfy financial accountability standards as determined by commissioner rule, revoke

the district's accreditation and:

(A) order closure of the district and annex the district to one or more adjoining districts under Section 13.054; or

(B) in the case of a home-rule school district or open-enrollment charter school, order closure of all programs operated under the district's or school's charter; or

(11) if a district has been rated academically unacceptable for two consecutive school years, including the current school year, due to the district's dropout rates, impose sanctions designed to improve high school completion rates, including:

(A) ordering the development of a dropout prevention plan for approval by the commissioner;

(B) restructuring the district or appropriate school campuses to improve identification of and service to students who are at risk of dropping out of school, as defined by Section 29.081;

(C) ordering lower student-to-counselor ratios on school campuses with high dropout rates; and

(D) ordering the use of any other intervention strategy effective in reducing dropout rates, including mentor programs and flexible class scheduling.

(b) This subsection applies regardless of whether a district has satisfied the accreditation criteria. If for two consecutive school years, including the current school year, a district has had a conservator or management team assigned, the commissioner may appoint a board of managers, a majority of whom must be residents of the district, to exercise the powers and duties of the board of trustees.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 834, Sec. 14, eff. Sept. 1, 2001; Acts 2001, 77th Leg., ch. 1504, Sec. 29, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 342, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 1201, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.17, eff. May 31, 2006.

Sec. 39.132. SANCTIONS FOR ACADEMICALLY UNACCEPTABLE CAMPUSES. If a campus performance is below any standard under Section 39.073(b), the campus is considered an academically unacceptable campus. The commissioner may permit the campus to participate in an innovative redesign of the campus to improve campus performance or shall take any of the other following actions, to the extent the commissioner determines necessary:

(1) issue public notice of the deficiency to the board of trustees;

(2) order a hearing conducted by the board of trustees at the campus for the purpose of:

(A) notifying the public of the unacceptable performance, the improvements in performance expected by the agency, and the sanctions that may be imposed under this section if the performance does not improve within a designated period of time; and

(B) soliciting public comment on the initial steps being taken to improve performance;

(3) order the preparation of a report regarding the parental involvement program at the campus and a plan describing strategies for improving parental involvement at the campus;

(4) order the preparation of a report regarding the effectiveness of the district- and campus-level planning and decision-making committees established under Subchapter F, Chapter 11, and a plan describing strategies for improving the effectiveness of those committees;

(5) order the preparation of a student improvement plan that addresses each academic excellence indicator for which the campus's performance is unacceptable, the submission of the plan to the commissioner for approval, and implementation of the plan;

(6) order a hearing to be held before the commissioner or the commissioner's designee at which the president of the board of trustees, the superintendent, and the campus principal shall appear and explain the campus's low performance, lack of improvement, and plans for improvement; or

(7) appoint a campus intervention team under Section 39.1322.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 1365, Sec. 2, eff. June 19, 1999. Renumbered from Education Code Sec. 39.131(b) and amended by Acts 2003, 78th Leg., ch. 342, Sec. 5, eff. Sept. 1, 2003; Acts 2003, 78th Leg., 3rd C.S., ch. 3, Sec. 17.01, eff. Jan. 11, 2004.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.18, eff. May 31, 2006.

Acts 2007, 80th Leg., R.S., Ch. 921, Sec. 4.009, eff. September 1, 2007.

Sec. 39.1321. SANCTIONS FOR CHARTER SCHOOLS. (a) Sanctions authorized under this chapter for a school district or campus apply in the same manner to an open-enrollment charter school.

(b) The commissioner shall adopt rules to implement procedures to impose any sanction provision under this chapter as those provisions relate to open-enrollment charter schools.

(c) In adopting rules under this section, the commissioner shall require that the charter of an open-enrollment charter school:

(1) be automatically revoked if the charter school is ordered closed under this chapter; and

(2) be automatically modified to remove authorization for an individual campus if the campus is ordered closed under this chapter.

(d) If sanctions are imposed on an open-enrollment charter school under the procedures provided by this chapter, a charter school is not entitled to an additional hearing relating to the modification, placement on probation, revocation, or denial of renewal of a charter as provided by Subchapter D, Chapter 12.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.19, eff. May 31, 2006.

Sec. 39.1322. TECHNICAL ASSISTANCE AND CAMPUS INTERVENTION TEAMS. (a) If a campus is rated academically acceptable for the current school year but would be rated as academically unacceptable if performance standards to be used for the following school year were applied to the current school year, the commissioner shall select and assign a technical assistance team to assist the campus in executing a school improvement plan and any other school improvement strategies the commissioner determines appropriate. The commissioner may waive the requirement to assign a technical assistance team under this subsection if the improvement in performance standards among all student groups,

including special populations, over the preceding three years indicates that the campus is likely to be rated academically acceptable in the following school year.

(b) If a campus has been identified as academically unacceptable under Section 39.132, the commissioner shall appoint a campus intervention team.

(c) To the extent practicable, the commissioner shall select and assign the technical assistance team under Subsection (a) or the campus intervention team under Subsection (b) before the first day of instruction for the school year.

(d) The commissioner may determine when the services of a technical assistance team or campus intervention team are no longer needed at a campus under this section.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.19, eff. May 31, 2006.

Sec. 39.1323. CAMPUS INTERVENTION TEAM PROCEDURES. (a) A campus intervention team shall:

(1) conduct a comprehensive on-site evaluation of the campus to determine the cause for the campus's low performance and lack of progress;

(2) recommend actions, including reallocation of resources and technical assistance, changes in school procedures or operations, staff development for instructional and administrative staff, intervention for individual administrators or teachers, waivers from state statute or rule, or other actions the team considers appropriate;

(3) assist in the development of a school improvement plan for student achievement; and

(4) assist the commissioner in monitoring the progress

of the campus in implementing the school improvement plan for improvement of student achievement.

(b) A campus intervention team assigned under Section 39.1322 to a campus shall conduct a comprehensive on-site needs assessment of the campus to determine the causal factors resulting in the campus's low performance and lack of progress. The team shall use the following guidelines and procedures in conducting the comprehensive needs assessment of the campus:

(1) an assessment of the staff to determine the percentage of certified teachers who are teaching in their field, the number of teachers with less than three years of experience, and teacher turnover rates;

(2) compliance with the appropriate class-size rules and number of class-size waivers received;

(3) an assessment of the quality, quantity, and appropriateness of instructional materials, including the availability of technology-based instructional materials;

(4) a report on the parental involvement strategies and the effectiveness of the strategies;

(5) an assessment of the extent and quality of the mentoring program provided for new teachers on the campus;

(6) an assessment of the type and quality of the professional development provided to the staff;

(7) a demographic analysis of the student population, including student demographics, at-risk populations, and special education percentages;

(8) a report of disciplinary incidents and school safety information;

(9) financial and accounting practices;

(10) an assessment of the appropriateness of the

curriculum and teaching strategies; and

(11) any other research-based data or information obtained from a data collection process that would assist the campus intervention team in:

(A) recommending an action under Subsection (c);

and

(B) executing a school improvement plan under Subsection (d).

(c) On completing the evaluation under this section, the campus intervention team shall recommend actions, including:

(1) reallocation of resources;

(2) technical assistance;

(3) changes in school procedures or operations;

(4) staff development for instructional and administrative staff;

(5) intervention for individual administrators or teachers;

(6) waivers from state statutes or rules; or

(7) other actions the campus intervention team considers appropriate.

(d) In executing a school improvement plan developed under Subsection (a)(3), the campus intervention team shall:

(1) assist the campus in implementing research-based practices for curriculum development and classroom instruction, including bilingual education and special education programs, if appropriate, and financial management;

(2) provide research-based technical assistance, including data analysis, academic deficiency identification, intervention implementation, and budget analysis, to strengthen and improve the instructional programs at the campus; and

(3) submit the school improvement plan to the commissioner for approval.

(e) A campus intervention team appointed under Section 39.1322(b):

(1) shall continue to work with a campus until:

(A) the campus is rated academically acceptable for a two-year period; or

(B) the campus is rated academically acceptable for a one-year period and the commissioner determines that the campus is operating and will continue to operate in a manner that improves student achievement; and

(2) may continually update the school improvement plan, with approval from the commissioner, to meet the needs of the campus.

(f) Notwithstanding any other provision of this subchapter, if the commissioner determines that a campus for which an intervention is ordered under Section 39.1322(b) is not fully implementing the campus intervention team's recommendations or school improvement plan, the commissioner may order the reconstitution of the campus.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.19, eff. May 31, 2006.

Sec. 39.1324. MANDATORY SANCTIONS. (a) If a campus has been identified as academically unacceptable for two consecutive school years, including the current school year, the commissioner shall order the reconstitution of the campus and assign a campus intervention team. In reconstituting the campus, a campus intervention team shall assist the campus in:

(1) developing a school improvement plan;

(2) obtaining approval of the plan from the commissioner; and

(3) executing the plan on approval by the commissioner.

(b) The campus intervention team shall decide which educators may be retained at that campus. A principal who has been employed by the campus in that capacity during the full two-year period described by Subsection (a) may not be retained at that campus. A teacher of a subject assessed by an assessment instrument under Section 39.023 may be retained only if the campus intervention team determines that a pattern exists of significant academic improvement by students taught by the teacher. If an educator is not retained, the educator may be assigned to another position in the district.

(c) A campus subject to Subsection (a) shall implement the school improvement plan as approved by the commissioner. The commissioner may appoint a monitor, conservator, management team, or a board of managers to the district to ensure and oversee the implementation of the school improvement plan.

(d) Notwithstanding any other provision of this subchapter, if the commissioner determines that a campus subject to Subsection (a) is not fully implementing the school improvement plan, the commissioner may pursue alternative management of the campus under Section 39.1327 or may order closure of the campus.

(e) If a campus is considered an academically unacceptable campus for the subsequent school year after the campus is reconstituted under this section, the commissioner shall review the progress of the campus and may order closure of the campus or pursue alternative management under Section 39.1327.

(f) If a campus is considered academically unacceptable for two consecutive school years after the campus is reconstituted

under Subsection (a), the commissioner shall order closure of the campus or pursue alternative management under Section 39.1327.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.19, eff. May 31, 2006.

For expiration of this section, see this section.

Sec. 39.1326. TRANSITIONAL SANCTIONS PROVISIONS. For the 2006-2007 school year, the commissioner shall assign a campus intervention team or a technical assistance team to a campus under Section 39.1322 on the basis of academic performance ratings for the 2005-2006 school year. The commissioner may impose a sanction on a campus under Section 39.1323(f) or 39.1324(a) on the basis of academic performance ratings for the 2005-2006 school year and the 2006-2007 school year. A sanction ordered by the commissioner before July 1, 2006, shall remain in effect for the 2006-2007 school year. The commissioner may allow a principal subject to Section 39.1324(b) to remain at a campus for the 2006-2007 school year. This section expires September 1, 2008.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.19, eff. May 31, 2006.

Sec. 39.1327. MANAGEMENT OF CERTAIN ACADEMICALLY UNACCEPTABLE CAMPUSES. (a) A campus may be subject to this section if the campus has been identified as academically unacceptable under Section 39.132 and the commissioner orders alternative management under Section 39.1324(d), (e), or (f).

(b) The commissioner shall solicit proposals from qualified nonprofit entities to assume management of a campus subject to this section or may appoint to assume management of a campus subject to this section a school district other than the district in which the

campus is located that is located in the boundaries of the same regional education service center as the campus is located. A district appointed under this section shall assume management of a campus subject to this section in the same manner provided by this section for a qualified nonprofit entity or in accordance with commissioner rule.

(c) If the commissioner determines that the basis for identifying a campus as academically unacceptable is limited to a specific condition that may be remedied with targeted technical assistance, the commissioner may:

(1) provide the campus a one-year waiver under this section; and

(2) require the district to contract for the appropriate technical assistance.

(d) The commissioner may annually solicit proposals under this section for the management of a campus subject to this section. The commissioner shall notify a qualified nonprofit entity that has been approved as a provider under this section. The district must execute a contract with an approved provider and relinquish control of the campus before January 1 of the school year.

(e) To qualify for consideration as a managing entity under this section, the entity must submit a proposal that provides information relating to the entity's management and leadership team that will participate in management of the campus under consideration, including information relating to individuals that have:

(1) documented success in whole school interventions that increased the educational and performance levels of students in academically unacceptable campuses;

(2) a proven record of effectiveness with programs assisting low-performing students;

(3) a proven ability to apply research-based school intervention strategies;

(4) a proven record of financial ability to perform under the management contract; and

(5) any other experience or qualifications the commissioner determines necessary.

(f) In selecting a managing entity under this section, the commissioner shall give preference to a nonprofit entity that:

(1) meets any qualifications under this section; and

(2) has documented success in educating students from similar demographic groups and with similar educational needs as the students who attend the campus that is to be operated by a managing entity under this section.

(g) The school district may negotiate the term of a management contract for not more than five years with an option to renew the contract. The management contract must include a provision describing the district's responsibilities in supporting the operation of the campus. The commissioner shall approve the contract before the contract is executed and, as appropriate, may require the district, as a term of the contract, to support the campus in the same manner as the district was required to support the campus before the execution of the management contract.

(h) A management contract under this section shall include provisions approved by the commissioner that require the managing entity to demonstrate improvement in campus performance, including negotiated performance measures. The performance measures must be consistent with the priorities of this chapter. The commissioner shall evaluate a managing entity's performance on the first and

second anniversaries of the date of the management contract. If the evaluation fails to demonstrate improvement as negotiated under the contract by the first anniversary of the date of the management contract, the district may terminate the management contract, with the commissioner's consent, for nonperformance or breach of contract and select another provider from an approved list provided by the commissioner. If the evaluation fails to demonstrate significant improvement, as determined by the commissioner, by the second anniversary of the date of the management contract, the district shall terminate the management contract and select another provider from an approved list provided by the commissioner or resume operation of the campus if approved by the commissioner. If the commissioner approves the district's operation of the campus, the commissioner shall assign a technical assistance team to assist the campus.

(i) Notwithstanding any other provision of this code, the funding for a campus operated by a managing entity must be not less than the funding of the other campuses in the district on a per student basis so that the managing entity receives at least the same funding the campus would otherwise have received.

(j) Each campus operated by a managing entity under this section is subject to this chapter in the same manner as any other campus in the district.

(k) The commissioner may adopt rules necessary to implement this section.

(l) With respect to the management of a campus under this section:

(1) a managing entity is considered to be a governmental body for purposes of Chapters 551 and 552, Government Code; and

(2) any requirement in Chapter 551 or 552, Government

Code, that applies to a school district or the board of trustees of a school district applies to a managing entity.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.19, eff. May 31, 2006.

Sec. 39.133. ANNUAL REVIEW. The commissioner shall review annually the performance of a district or campus subject to this subchapter to determine the appropriate actions to be implemented under this subchapter. The commissioner must review at least annually the performance of a district for which the accreditation rating has been lowered due to unacceptable student performance and may not raise the rating until the district has demonstrated improved student performance. If the review reveals a lack of improvement, the commissioner shall increase the level of state intervention and sanction unless the commissioner finds good cause for maintaining the current status.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Renumbered from Education Code Sec. 39.131(c) and amended by Acts 2003, 78th Leg., ch. 342, Sec. 5, eff. Sept. 1, 2003.

Sec. 39.1331. ACQUISITION OF PROFESSIONAL SERVICES. In addition to other sanctions authorized under Sections 39.131 and 39.132, the commissioner may order a school district or campus to acquire professional services at the expense of the district or campus to address the applicable financial, assessment, data quality, program, or governance deficiency. The commissioner's order may require the district or campus to:

(1) select an external auditor, data quality expert, professional authorized to monitor district assessment instrument administration, or curriculum or program expert; or

(2) provide for the appropriate training of district staff or board of trustees members in the case of a district, or campus staff, in the case of a campus.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.20, eff. May 31, 2006.

Sec. 39.134. COSTS PAID BY DISTRICT. The costs of providing a monitor, conservator, management team, campus intervention team, technical assistance team, managing entity under Section 39.1327, or service provider under Section 39.1331 shall be paid by the district. If the district fails or refuses to pay the costs in a timely manner, the commissioner may:

(1) pay the costs using amounts withheld from any funds to which the district is otherwise entitled; or

(2) recover the amount of the costs in the manner provided for recovery of an overallocation of state funds under Section 42.258.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 1504, Sec. 29, eff. Sept. 1, 2001. Renumbered from Education Code Sec. 39.131(d) and amended by Acts 2003, 78th Leg., ch. 342, Sec. 5, eff. Sept. 1, 2003.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.21, eff. May 31, 2006.

Sec. 39.135. CONSERVATOR OR MANAGEMENT TEAM. (a) The commissioner shall clearly define the powers and duties of a conservator or management team appointed to oversee the operations of the district.

(b) At least every 90 days, the commissioner shall review the

need for the conservator or management team and shall remove the conservator or management team unless the commissioner determines that continued appointment is necessary for effective governance of the district or delivery of instructional services.

(c) A conservator or management team, if directed by the commissioner, shall prepare a plan for the implementation of action under Section 39.131(a)(9) or (10). The conservator or management team:

(1) may direct an action to be taken by the principal of a campus, the superintendent of the district, or the board of trustees of the district;

(2) may approve or disapprove any action of the principal of a campus, the superintendent of the district, or the board of trustees of the district;

(3) may not take any action concerning a district election, including ordering or canceling an election or altering the date of or the polling places for an election;

(4) may not change the number of or method of selecting the board of trustees;

(5) may not set a tax rate for the district; and

(6) may not adopt a budget for the district that provides for spending a different amount, exclusive of required debt service, from that previously adopted by the board of trustees.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Renumbered from Education Code Sec. 39.131(e) and amended by Acts 2003, 78th Leg., ch. 342, Sec. 5, eff. Sept. 1, 2003.

Sec. 39.136. BOARD OF MANAGERS. (a) A board of managers may exercise all of the powers and duties assigned to a board of

trustees of a school district by law, rule, or regulation. This subchapter applies to a district governed by a board of managers in the same manner that this subchapter applies to any other district.

(b) If the commissioner appoints a board of managers to govern a district, the powers of the board of trustees of the district are suspended for the period of the appointment and the commissioner shall appoint a district superintendent. Notwithstanding any other provision of this code, the board of managers may amend the budget of the district.

(c) If the commissioner appoints a board of managers to govern a campus, the powers of the board of trustees of the district in relation to the campus are suspended for the period of the appointment and the commissioner shall appoint a campus principal. Notwithstanding any other provision of this code, the board of managers may submit to the commissioner for approval amendments to the budget of the district for the benefit of the campus. If the commissioner approves the amendments, the board of trustees of the district shall adopt the amendments.

(d) A conservator or a member of a management team appointed to serve on a board of managers may continue to be compensated as determined by the commissioner.

(e) At the direction of the commissioner but not later than the second anniversary of the date the board of managers of a district was appointed, the board of managers shall order an election of members of the district board of trustees. The election must be held on a uniform election date on which an election of district trustees may be held under Section 41.001, Election Code, that is at least 180 days after the date the election was ordered. On qualification of members for office, the board of trustees assumes all of the powers and duties assigned to

a board of trustees by law, rule, or regulation.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Renumbered from Education Code Sec. 39.131(f) and amended by Acts 2003, 78th Leg., ch. 342, Sec. 5, eff. Sept. 1, 2003.

Sec. 39.137. SPECIAL CAMPUS INTERVENTION TEAM. A special campus intervention team appointed under this subchapter may consist of teachers, principals, other educational professionals, and superintendents recognized for excellence in their roles and appointed by the commissioner to serve as members of a team.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Renumbered from Education Code Sec. 39.131(g) and amended by Acts 2003, 78th Leg., ch. 342, Sec. 5, eff. Sept. 1, 2003.

Sec. 39.138. IMMUNITY FROM CIVIL LIABILITY. An employee, volunteer, or contractor acting on behalf of the commissioner under this subchapter is immune from civil liability to the same extent as a professional employee of a school district under Section 22.051.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Renumbered from Education Code Sec. 39.131(h) and amended by Acts 2003, 78th Leg., ch. 342, Sec. 5, eff. Sept. 1, 2003.

SUBCHAPTER H. REPORTS BY TEXAS EDUCATION AGENCY

Sec. 39.181. GENERAL REQUIREMENTS. (a) Each report required by this subchapter must:

(1) unless otherwise specified, contain summary information and analysis only, with an indication that the agency will provide the data underlying the report on request;

(2) specify a person at the agency who may be contacted

for additional information regarding the report and provide the person's telephone number; and

(3) identify other sources of related information, indicating the level of detail and format of information that may be obtained, including the availability of any information on the Texas Education Network.

(b) Each component of a report required by this subchapter must:

(1) identify the substantive goal underlying the information required to be reported;

(2) analyze the progress made and longitudinal trends in achieving the underlying substantive goal;

(3) offer recommendations for improved progress in achieving the underlying substantive goal; and

(4) identify the relationship of the information required to be reported to state education goals.

(c) Unless otherwise provided, each report required by this subchapter is due not later than December 1 of each even-numbered year.

(d) Subsections (a) and (b) apply to any report required by statute that the agency or the State Board of Education must prepare and deliver to the governor, lieutenant governor, speaker of the house of representatives, or legislature.

(e) Unless otherwise provided by law, any report required by statute that the agency or the State Board of Education must prepare and deliver to the governor, lieutenant governor, speaker of the house of representatives, or legislature may be combined, at the discretion of the commissioner, with a report required by this subchapter.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.182. COMPREHENSIVE ANNUAL REPORT. (a) Not later than December 1 of each year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a comprehensive report covering the preceding school year and containing:

(1) an evaluation of the achievements of the state educational program in relation to the statutory goals for the public education system under Section 4.002;

(2) an evaluation of the status of education in the state as reflected by the academic excellence indicators adopted under Section 39.051;

(3) a summary compilation of overall student performance on academic skills assessment instruments required by Section 39.023 with the number and percentage of students exempted from the administration of those instruments and the basis of the exemptions, aggregated by grade level, subject area, campus, and district, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(4) a summary compilation of overall performance of students placed in a disciplinary alternative education program established under Section 37.008 on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic

status;

(5) a summary compilation of overall performance of students at risk of dropping out of school, as defined by Section 29.081(d), on academic skills assessment instruments required by Section 39.023 with the number of those students exempted from the administration of those instruments and the basis of the exemptions, aggregated by district, grade level, and subject area, with appropriate interpretations and analysis, and disaggregated by race, ethnicity, gender, and socioeconomic status;

(6) an evaluation of the correlation between student grades and student performance on academic skills assessment instruments required by Section 39.023;

(7) a statement of the dropout rate of students in grade levels 7 through 12, expressed in the aggregate and by grade level, and a statement of the completion rates of students for grade levels 9 through 12;

(8) a statement of:

(A) the completion rate of students who enter grade level 9 and graduate not more than four years later;

(B) the completion rate of students who enter grade level 9 and graduate, including students who require more than four years to graduate;

(C) the completion rate of students who enter grade level 9 and not more than four years later receive a high school equivalency certificate;

(D) the completion rate of students who enter grade level 9 and receive a high school equivalency certificate, including students who require more than four years to receive a certificate; and

(E) the number and percentage of all students who

have not been accounted for under Paragraph (A), (B), (C), or (D);

(9) a statement of the projected cross-sectional and longitudinal dropout rates for grade levels 9 through 12 for the next five years, assuming no state action is taken to reduce the dropout rate;

(10) a description of a systematic, measurable plan for reducing the projected cross-sectional and longitudinal dropout rates to five percent or less for the 1997-1998 school year;

(11) a summary of the information required by Section 29.083 regarding grade level retention of students and information concerning:

(A) the number and percentage of students retained;

and

(B) the performance of retained students on assessment instruments required under Section 39.023(a);

(12) information, aggregated by district type and disaggregated by race, ethnicity, gender, and socioeconomic status, on:

(A) the number of students placed in a disciplinary alternative education program established under Section 37.008;

(B) the average length of a student's placement in a disciplinary alternative education program established under Section 37.008;

(C) the academic performance of students on assessment instruments required under Section 39.023(a) during the year preceding and during the year following placement in a disciplinary alternative education program; and

(D) the dropout rates of students who have been placed in a disciplinary alternative education program established under Section 37.008;

(13) a list of each school district or campus that does not satisfy performance standards, with an explanation of the actions taken by the commissioner to improve student performance in the district or campus and an evaluation of the results of those actions;

(14) an evaluation of the status of the curriculum taught in public schools, with recommendations for legislative changes necessary to improve or modify the curriculum required by Section 28.002;

(15) a description of all funds received by and each activity and expenditure of the agency;

(16) a summary and analysis of the instructional expenditures ratios and instructional employees ratios of school districts computed under Section 44.0071;

(17) a summary of the effect of deregulation, including exemptions and waivers granted under Section 7.056 or 39.112;

(18) a statement of the total number and length of reports that school districts and school district employees must submit to the agency, identifying which reports are required by federal statute or rule, state statute, or agency rule, and a summary of the agency's efforts to reduce overall reporting requirements;

(19) a list of each school district that is not in compliance with state special education requirements, including:

(A) the period for which the district has not been in compliance;

(B) the manner in which the agency considered the district's failure to comply in determining the district's accreditation status; and

(C) an explanation of the actions taken by the

commissioner to ensure compliance and an evaluation of the results of those actions;

(20) a comparison of the performance of open-enrollment charter schools and school districts on the academic excellence indicators specified in Section 39.051(b) and accountability measures adopted under Section 39.051(g), with a separately aggregated comparison of the performance of open-enrollment charter schools predominantly serving students at risk of dropping out of school, as defined by Section 29.081(d), with the performance of school districts;

(21) a summary of the information required by Section 38.0141 regarding student health and physical activity from each school district;

(22) a summary compilation of overall student performance under the assessment system developed to evaluate the longitudinal academic progress as required by Section 39.027(e), disaggregated by bilingual education or special language program instructional model, if any; and

(23) any additional information considered important by the commissioner or the State Board of Education.

(b) In reporting the information required by Subsection (a) (3) or (4), the agency may separately aggregate the performance data of students enrolled in a special education program under Subchapter A, Chapter 29.

(b-1) In reporting the information required by Subsections (a) (3), (5), and (7), the agency shall separately aggregate the longitudinal performance data of all students identified as students of limited English proficiency, as defined by Section 29.052, or former students of limited English proficiency, disaggregated by bilingual education or special language program

instructional model, if any, in which the students are or were enrolled.

(c) Each report must contain the most recent data available. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1999, 76th Leg., ch. 1417, Sec. 5, eff. June 19, 1999; Acts 2001, 77th Leg., ch. 725, Sec. 8, 9, eff. June 13, 2001; Acts 2001, 77th Leg., ch. 834, Sec. 15, eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 1269, Sec. 3, eff. Sept. 1, 2003.

Amended by:

Acts 2005, 79th Leg., Ch. 784, Sec. 8, eff. June 17, 2005.

Acts 2007, 80th Leg., R.S., Ch. 1340, Sec. 6, eff. June 15, 2007.

Sec. 39.183. REGIONAL AND DISTRICT LEVEL REPORT. The agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a regional and district level report covering the preceding two school years and containing:

(1) a summary of school district compliance with the student/teacher ratios and class-size limitations prescribed by Sections 25.111 and 25.112, including:

(A) the number of campuses and classes at each campus granted an exception from Section 25.112; and

(B) the performance rating under Subchapter D of each campus granted an exception from Section 25.112;

(2) a summary of the exemptions and waivers granted to school districts under Section 7.056 or 39.112 and a review of the

effectiveness of each campus or district following deregulation;

(3) an evaluation of the performance of the system of regional education service centers based on the indicators adopted under Section 8.101 and client satisfaction with services provided under Subchapter B, Chapter 8;

(4) an evaluation of accelerated instruction programs offered under Section 28.006, including an assessment of the quality of such programs and the performance of students enrolled in such programs; and

(5) the number of classes at each campus that are currently being taught by individuals who are not certified in the content areas of their respective classes.

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 1997, 75th Leg., ch. 268, Sec. 3, eff. May 26, 1997; Acts 1999, 76th Leg., ch. 396, Sec. 2.26, eff. Sept. 1, 1999; Acts 2001, 77th Leg., ch. 889, Sec. 3, eff. June 14, 2001.

Sec. 39.184. TECHNOLOGY REPORT. The agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system a technology report covering the preceding two school years and containing information on the status of the implementation of and revisions to the long-range technology plan required by Section 32.001, including the equity of the distribution and use of technology in public schools. Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Sec. 39.185. INTERIM REPORT. Not later than December 1 of

each odd-numbered year, the agency shall prepare and deliver to the governor, the lieutenant governor, the speaker of the house of representatives, each member of the legislature, the Legislative Budget Board, and the clerks of the standing committees of the senate and house of representatives with primary jurisdiction over the public school system an interim report containing, for the previous school year, the information required by Section 39.183(2).

Added by Acts 1995, 74th Leg., ch. 260, Sec. 1, eff. May 30, 1995.

Amended by Acts 2001, 77th Leg., ch. 725, Sec. 10, eff. June 13, 2001.

SUBCHAPTER I. FINANCIAL ACCOUNTABILITY

Sec. 39.201. DEFINITIONS. In this subchapter:

(1) "Parent" includes a guardian or other person having lawful control of a student.

(2) "System" means the financial accountability rating system.

Added by Acts 2001, 77th Leg., ch. 914, Sec. 1, eff. Sept. 1, 2001.

Sec. 39.202. DEVELOPMENT AND IMPLEMENTATION. (a) The commissioner shall, in consultation with the comptroller, develop and implement a financial accountability rating system for school districts in this state that:

(1) distinguishes among school districts based on levels of financial performance; and

(2) includes procedures to:

(A) provide additional transparency to public education finance; and

(B) enable the commissioner and school district

administrators to provide meaningful financial oversight and improvement.

(b) The system must include uniform indicators adopted by the commissioner by which to measure a district's financial management performance.

Added by Acts 2001, 77th Leg., ch. 914, Sec. 1, eff. Sept. 1, 2001.

Amended by:

Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 2.05, eff. May 31, 2006.

Sec. 39.203. REPORTING. (a) The commissioner shall develop, as part of the system, a reporting procedure under which:

(1) each school district is required to prepare and distribute an annual financial management report; and

(2) the public is provided an opportunity to comment on the report at a hearing.

(b) The annual financial management report must include:

(1) a description of the district's financial management performance based on a comparison, provided by the agency, of the district's performance on the indicators adopted under Section 39.202(b) to:

(A) state-established standards; and

(B) the district's previous performance on the indicators; and

(2) any descriptive information required by the commissioner.

(c) The report may include:

(1) information concerning the district's:

(A) financial allocations;

(B) tax collections;

- (C) financial strength;
- (D) operating cost management;
- (E) personnel management;
- (F) debt management;
- (G) facility acquisition and construction management;
- (H) cash management;
- (I) budgetary planning;
- (J) overall business management;
- (K) compliance with rules; and
- (L) data quality; and

(2) any other information the board of trustees determines to be necessary or useful.

(d) The board of trustees of each school district shall hold a public hearing on the report. The board shall give notice of the hearing to owners of real property in the district and to parents of district students. In addition to other notice required by law, notice of the hearing must be provided:

(1) to a newspaper of general circulation in the district; and

(2) through electronic mail to media serving the district.

(e) After the hearing, the report shall be disseminated in the district in the manner prescribed by the commissioner.

Added by Acts 2001, 77th Leg., ch. 914, Sec. 1, eff. Sept. 1, 2001.

Sec. 39.204. RULES. The commissioner shall adopt rules as necessary for the implementation and administration of this subchapter.

Added by Acts 2001, 77th Leg., ch. 914, Sec. 1, eff. Sept. 1, 2001.

SUBCHAPTER J. NOTICE OF PERFORMANCE

Sec. 39.251. NOTICE IN STUDENT GRADE REPORT. The first written notice of a student's performance that a school district gives during a school year as required by Section 28.022(a)(2) must include the following information:

(1) the most recent performance rating of the campus at which the student is enrolled, as determined under Section 39.072; and

(2) a definition and explanation of each performance rating described by Section 39.072(a).

Added by Acts 2005, 79th Leg., Ch. 1158, Sec. 1, eff. June 18, 2005.

Sec. 39.252. NOTICE ON DISTRICT WEBSITE. Not later than the 10th day after the first day of instruction of each school year, a school district that maintains an Internet website shall make the following information available to the public on the website:

(1) the information contained in the most recent campus report card for each campus in the district, as determined under Section 39.052;

(2) the information contained in the most recent performance report for the district, as determined under Section 39.053;

(3) the most recent performance rating of the district, as determined under Section 39.072; and

(4) a definition and explanation of each performance rating described by Section 39.072(a).

Added by Acts 2005, 79th Leg., Ch. 1158, Sec. 1, eff. June 18, 2005.

SUBCHAPTER K. PROCEDURES FOR CHALLENGE OF ACCOUNTABILITY

RATING OR SANCTION

Sec. 39.301. REVIEW BY COMMISSIONER: ACCOUNTABILITY RATINGS.

(a) The commissioner by rule shall provide a process for a school district or open-enrollment charter school to challenge an agency decision made under this chapter relating to an academic or financial accountability rating that affects the district or school.

(b) The rules under Subsection (a) must provide for the commissioner to appoint a committee to make recommendations to the commissioner on a challenge made to an agency decision relating to an academic or financial accountability rating. The commissioner may not appoint an agency employee as a member of the committee.

(c) The commissioner may limit a challenge under this section to a written submission of any issue identified by the school district or open-enrollment charter school challenging the agency decision.

(d) The commissioner shall make a final decision under this section after considering the recommendation of the committee described by Subsection (b). The commissioner's decision may not be appealed under Section 7.057 or other law.

(e) A school district or open-enrollment charter school may not challenge an agency decision relating to an academic or financial accountability rating under this chapter in another proceeding if the district or school has had an opportunity to challenge the decision under this section.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.22, eff. May 31, 2006.

Sec. 39.302. REVIEW BY STATE OFFICE OF ADMINISTRATIVE HEARINGS: SANCTIONS. (a) A school district or open-enrollment charter school that intends to challenge a decision by the commissioner under this chapter to close the district or a district campus or the charter school or to pursue alternative management of a district campus or the charter school must appeal the decision under the procedures provided for a contested case under Chapter 2001, Government Code.

(b) A challenge to a decision under this section is under the substantial evidence rule as provided by Subchapter G, Chapter 2001, Government Code.

(c) Notwithstanding other law:

(1) the State Office of Administrative Hearings shall provide an expedited review of a challenge under this section;

(2) the administrative law judge shall issue a final order not later than the 30th day after the date on which the hearing is finally closed; and

(3) the decision of the administrative law judge is final and may not be appealed.

Added by Acts 2006, 79th Leg., 3rd C.S., Ch. 5, Sec. 3.22, eff. May 31, 2006.

SUBCHAPTER L. HIGH SCHOOL COMPLETION AND SUCCESS INITIATIVE

Sec. 39.351. DEFINITION. In this subchapter, "council" means the High School Completion and Success Initiative Council.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.352. HIGH SCHOOL COMPLETION AND SUCCESS INITIATIVE COUNCIL. (a) The High School Completion and Success Initiative

Council is established to identify strategic priorities for and make recommendations to improve the effectiveness, coordination, and alignment of high school completion and college and workforce readiness efforts.

(b) The council is composed of:

- (1) the commissioner of education;
- (2) the commissioner of higher education; and
- (3) seven members appointed by the commissioner of education.

(c) In making appointments required by Subsection (b) (3), the commissioner of education shall appoint:

- (1) three members from a list of nominations provided by the governor;
- (2) two members from a list of nominations provided by the lieutenant governor; and
- (3) two members from a list of nominations provided by the speaker of the house of representatives.

(d) In making nominations under Subsection (c), the governor, lieutenant governor, and speaker of the house of representatives shall nominate persons who have distinguished experience in:

- (1) developing and implementing high school reform strategies; and
- (2) promoting college and workforce readiness.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.353. TERMS. Members of the council appointed under Section 39.352(b) (3) serve terms of two years and may be reappointed for additional terms.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June

15, 2007.

Sec. 39.354. PRESIDING OFFICER. The commissioner of education serves as the presiding officer of the council.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.355. COMPENSATION AND REIMBURSEMENT. A member of the council is not entitled to compensation for service on the council but is entitled to reimbursement for actual and necessary expenses incurred in performing council duties.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.356. COUNCIL STAFF AND FUNDING. (a) Except as otherwise provided, staff members of the agency, with the assistance of the Texas Higher Education Coordinating Board, shall provide administrative support for the council.

(b) Funding for the administrative and operational expenses of the council shall be provided by appropriation to the agency for that purpose and by gifts, grants, and donations solicited and accepted by the agency for that purpose.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.357. STRATEGIC PLAN. (a) The council shall adopt a strategic plan under this subchapter to:

(1) specify strategies to identify, support, and expand programs to improve high school completion rates and college and workforce readiness;

(2) establish specific goals with which to measure the success of the strategies identified under Subdivision (1) in improving high school completion rates and college and workforce readiness;

(3) identify strategies for alignment and coordination of federal and other funding sources that may be pursued for high school reform, dropout prevention, and preparation of students for postsecondary coursework or employment; and

(4) identify key objectives for appropriate research and program evaluation conducted as provided by this subchapter.

(b) The commissioner of education and the commissioner of higher education shall adopt rules as necessary to administer the strategic plan adopted by the council under this section.

(c) The commissioner of education or the commissioner of higher education may not, in a manner inconsistent with the strategic plan, spend money, award a grant, or enter into a contract in connection with a program relating to high school success and completion.

(d) Notwithstanding Subsection (c), the commissioner of education, commissioner of higher education, or State Board of Education may use funds appropriated for high school success and completion to continue a project, grant, or initiative relating to high school success and completion that was developed before January 1, 2007. This subsection expires March 15, 2008.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.358. ELIGIBILITY CRITERIA FOR CERTAIN GRANT PROGRAMS. A school district or campus is eligible to participate in programs under Sections 21.4541, 29.095, 29.096, 29.097, and

29.098 if the district or campus exhibited during each of the three preceding school years characteristics that strongly correlate with high dropout rates.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.359. PRIVATE FOUNDATION PARTNERSHIPS. (a) The commissioner of education or the commissioner of higher education, as appropriate, and the council may coordinate with private foundations that have made a substantial investment in the improvement of high schools in this state to maximize the impact of public and private investments.

(b) A private foundation is not required to obtain the approval of the appropriate commissioner or the council under Subsection (a) before allocating resources to a school in this state.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.360. GRANT PROGRAM EVALUATION. (a) The commissioner of education shall annually set aside not more than five percent of the funds appropriated for high school completion and success to contract for the evaluation of programs supported by grants approved under this subchapter. In awarding a contract under this subsection, the commissioner shall consider centers for education research established under Section 1.005.

(b) A person who receives a grant approved under this subchapter must consent to an evaluation under this section as a condition of receiving the grant.

(c) The commissioner shall ensure that an evaluation

conducted under this section includes an assessment of whether student achievement has improved. Results of the evaluation shall be provided through the online clearinghouse of information relating to the best practices of campuses and school districts established under Section 7.009.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.361. COUNCIL RECOMMENDATIONS. (a) Based on the strategic plan adopted under this section, the council shall make recommendations to the commissioner of education or the commissioner of higher education, as applicable, for the use of federal and state funds appropriated or received for high school reform, college readiness, and dropout prevention, including grants awarded under Sections 21.4511, 21.4541, 29.095-29.098, 29.917, 29.919, and 39.115.

(b) The council shall include recommendations under this section for:

- (1) key elements of program design;
- (2) criteria for awarding grants and evaluating programs;
- (3) program funding priorities; and
- (4) program evaluation as provided by this subchapter.

(c) The commissioner of education or the commissioner of higher education, as applicable, shall consider the council's recommendations and based on those recommendations may award grants to school districts, open-enrollment charter schools, institutions of higher education, regional education service centers, and nonprofit organizations to meet the goals of the council's strategic plan.

(d) The commissioner of education or the commissioner of higher education, as applicable:

(1) is not required under this section to allocate funds to a program or initiative recommended by the council; and

(2) may not initiate a program funded under this section that does not conform to the recommended use of funds as provided under Subsections (a) and (b).

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.362. FUNDING PROVIDED TO SCHOOL DISTRICTS. From funds appropriated, the commissioner of education may provide funding to school districts to permit a school district to obtain technical assistance in preparing a grant proposal for a grant program administered under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.363. FUNDING FOR CERTAIN PROGRAMS. (a) From funds appropriated, the Texas Higher Education Coordinating Board shall allocate \$8.75 million each year to establish mathematics, science, and technology teacher preparation academies under Section 21.462 and implement and administer the program under Section 29.098.

(b) The Texas Higher Education Coordinating Board shall establish mathematics, science, and technology teacher preparation academies under Section 21.462 and implement and administer the program under Section 29.098 in a manner consistent with the goals of this subchapter and the goals in "Closing the Gaps," the state's master plan for higher education.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June

15, 2007.

Sec. 39.364. PRIVATE FUNDING. The commissioner of education or the commissioner of higher education, as appropriate, may accept gifts, grants, or donations to fund a grant administered under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.365. REPORTS. (a) Not later than December 1 of each even-numbered year, the agency shall prepare and deliver a report to the legislature that recommends any statutory changes the council considers appropriate to promote high school completion and college and workforce readiness.

(b) Not later than March 1 and September 1 of each year, the commissioner of education shall prepare and deliver a progress report to the presiding officers of the standing committees of each house of the legislature with primary jurisdiction over public education, the Legislative Budget Board, and the Governor's Office of Policy and Planning on:

(1) the implementation of Sections 7.031, 21.4511, 21.4541, 21.462, 28.008(d-1), 28.0212(d), 29.095-29.098, 29.911, 29.917-29.919, and 39.115 and this subchapter;

(2) the programs supported by grants approved under this subchapter; and

(3) the alignment of grants and programs to the strategic plan adopted under Section 39.357.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.

Sec. 39.366. RULES. The commissioner of education and the commissioner of higher education shall adopt rules as necessary to administer this subchapter and any programs under the authority of the commissioner of education or the commissioner of higher education and the council under this subchapter.

Added by Acts 2007, 80th Leg., R.S., Ch. 1058, Sec. 14, eff. June 15, 2007.