

Opting Out of Standardized Tests

In Texas, parents who object to standardized testing are publicly discussing the idea of “opting out,” either by keeping their children at home on test dates or by permitting them to abstain from testing.

However, “opting out” is not as easy as it sounds, and there are important consequences parents should consider.

The Q&A below gives an overview of state rules & the practice of opting out.



Many parents, and even many educators, are dismayed by the frequency of and emphasis on standardized tests in public schools. When the *Every Student Succeeds Act (ESSA)* replaced the *No Child Left Behind Act*, states were given some leeway in how students were assessed. However, state laws continue to intertwine school districts' accountability ratings & reputations with standardized test scores, leaving increased stress levels among students, teachers, and administrators. Although parents have the right to express their opinions, Rhodes School for the Performing Arts is tasked with the application of state rules on opting out.

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1) WHAT STANDARDIZED TESTS ARE REQUIRED IN TEXAS PUBLIC SCHOOLS?

Standardized testing is required in Texas public schools by the *State of Texas Assessments of Academic Readiness*, or “STAAR.” Find detailed STAAR assessment information [here](#).

Testing in Grades 3-8: Unless exempt, all students in grades 3-8 take the following STAAR tests:

- Math, annually in grades 3 through 8;
- Reading, annually in grades 3 through 8;
- Social studies in grade 8;
- Science in grades 5 and 8; and
- Any other subject and grade required by federal law.

Writing: To comply with federal requirements, Texas Education Agency (TEA) will integrate writing into the reading assessment in the 2021-22 school year.

3) IS THERE A RIGHT TO “OPT-OUT” OF STANDARDIZED TESTS IN TEXAS PUBLIC SCHOOLS?

No, in fact, just the opposite. State law makes it clear that students may not opt-out of standardized or any other tests. Texas Education Code section 26.010 states the following:

-EXEMPTION FROM INSTRUCTION. (a) A parent is entitled to remove the parent's child temporarily from a class or other school activity that conflicts with the parent's religious or moral beliefs if the parent presents or delivers to the teacher of the parent's child a written statement authorizing the removal of the child from the class or other school activity. A parent is not entitled to remove the parent's child from a class or other school activity to avoid a test, or to prevent the child from taking a subject for an entire semester.

(b) This section does not exempt a child from satisfying grade level or graduation requirements in a manner acceptable to the school district and the agency.

5) WHAT IS THE CONSEQUENCE TO A STUDENT FOR NOT COMPLETING STANDARDIZED TESTS?

Promotion and Grade Considerations: Passing a standardized assessment is no longer required for grade promotion in grades 5 and 8 (or any grade below grade 8). However, while a student's performance on a state assessment is not directly tied to grade promotion, a student's score on an applicable state assessment must be considered as a factor in promotion. Tex. Educ. Code § 28.021(c).

Additional Instructional Requirements: A student who does not complete the STAAR exam earns a score of zero, which is unsatisfactory performance on the STAAR. Each time a student does not perform satisfactorily on STAAR in grades 3 through 8, the district is required to provide the student with accelerated instruction. Districts can satisfy the accelerated instruction requirement by assigning the student to a classroom teacher who holds certain designations under the local optional teacher designation system or by providing the student with tutoring that meets the statutory requirements (see EHBC(LEGAL)). Tex. Educ. Code § 28.0211.

2) WHAT DOES FEDERAL LAW SAY ABOUT OPTING OUT?

ESSA requires districts to measure the achievement of at least 95% of all students. Under ESSA, schools that drop below 95% could face consequences from the state.

ESSA does not include a federal right to opt out of standardized assessments.

A provision in ESSA requires districts to provide information to parents regarding the assessment, which may include, “where applicable,” the district's opt-out policy. As described below, an opt-out policy is not applicable in Texas; therefore, school districts in Texas do not need to provide parents with information on an opt-out policy. Districts must, however, provide parents with information regarding their children's participation in the assessment.

4) WHAT ARE THE CONSEQUENCES OF MISSING SCHOOL ON A TESTING DATE?

Makeup Tests: First, it is important to note that missing school on a single designated test date will not necessarily cause a student to miss the testing opportunity. Although districts publish a schedule of specific test dates for STAAR, most tests are administered within a testing “window” set by TEA. If a student who has been absent returns to school during the testing window, the student may be asked to sit for the exam at that time. Makeup test dates are also scheduled for most assessments.

Compulsory Attendance: Depending on the circumstances, a student may be subject to truancy prevention measures, and a parent may commit the offense of contributing to nonattendance if the student fails to attend school on 10 or more days OR on parts of days within a six-month period in the same school year OR on three or more days OR on parts of days within a four-week period.

By law, a school district is required to notify a student's parent and seek a conference if the student has been absent from school without excuse on three days or parts of days within a four-week period. The notice must inform the parent of the following:

- It is the parent's duty to monitor the student's school attendance and require the student to attend school, and
- The student is subject to truancy prevention measures.

Like the state testing requirements, notice and enforcement of attendance laws are not optional for school districts.

Attendance for Credit: Failure to attend on a test date or during a testing window would also be taken into consideration for the purposes of the 90% attendance rule. A student in any grade K-12 may not receive credit or a final grade if the student attends class less than 90% of the days the class is offered, absent extenuating circumstances as determined by a local attendance committee or, in some cases, the campus principal in accordance with board policy. Tex. Educ. Code § 25.092.

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To review this full document, visit https://www.tasb.org/Services/Legal-Services/TASB-School-Law-eSource/Instruction/documents/opt_out_standardized_tests.pdf.

For more information on school law topics, visit TASB School Law eSource at schoolawesource.tasb.org.

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