

HB 165 and Related Items FAQ

House Bill (HB) 165, which relates to endorsements for public high school students enrolled in special education programs, passed in the 86th legislative session and amends Texas Education Code (TEC) §28.025 by adding Subsections (c-7) and (c-8). The Act applies beginning with the 2019-2020 school year.

The amendments allow a student enrolled in a special education program to earn an endorsement on the student's transcript by successfully completing, with or without modification of the curriculum:

- The curriculum requirements identified by the State Board of Education (SBOE) found under Subsection (a) of this statute;
- The additional endorsement curriculum requirements prescribed by the SBOE under Subsection (c-2) of this statute; and
- All curriculum requirements for that endorsement adopted by the SBOE without modification, or with modification provided that the curriculum, as modified, is sufficiently rigorous as determined by the student's admission, review, and dismissal (ARD) committee.

Likewise, the ARD committee determines whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript.

Q: When may ARD committees begin making decisions regarding endorsements for students enrolled in special education programs and receiving modifications now allowed in TEC §28.025?

A: Beginning with the 2019-2020 school year, if a student enrolled in a special education program chooses or has chosen to earn an endorsement in accordance with TEC §28.025, the student's ARD committee may convene to determine whether the student has received, or is receiving, curriculum modifications in courses necessary to satisfy foundation program requirements and/or in courses required for the endorsement(s) chosen by the student. If the student is receiving curriculum modifications, either in foundation or endorsement courses, the ARD committee must also determine whether the curriculum, as modified, is sufficiently rigorous, and determine whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student's transcript.

Q: May ARD committees review a student's previous courses (from a prior year) and curriculum modifications to make endorsement determinations under Subsections (c-7) and (c-8)?

A: Yes. The Act does not restrict ARD committees from only make decisions regarding courses taken from the 2019-2020 school year forward. However, ARD committees should take considerable care and ensure evidence exists that supports the committee’s determination in whether the curriculum, with modifications, in prior year coursework was sufficiently rigorous.

Q: May the STAAR Alternate 2 meet the end-of-course requirement and allow a student to earn an endorsement as described under Subsections (c-7) and (c-8)?

A: The STAAR Alternate 2 is designed to assess students in grades 3–8 and high school who have significant cognitive disabilities and are receiving special education services. **Texas defines a student with a significant cognitive disability as a student who :**

- exhibits significant intellectual and adaptive behavior deficits in their ability to plan, comprehend, and reason, and ALSO indicates adaptive behavior deficits that limit their ability to apply social and practical skills such as personal care, social problem-solving skills, dressing, eating, using money, and other functional skills across life domains;
- is NOT identified based on English learner designation or solely on the basis of previous low academic achievement or the need for accommodations; and
- requires extensive, direct, individualized instruction, as well as a need for substantial supports that are neither temporary nor specific to a particular content area.

STAAR Alternate 2 end-of-course exams exist for English I and II, Algebra I, Biology, and US History. However, ARD committees must determine whether the curriculum, as modified, is sufficiently rigorous, and determine whether the student is required to achieve satisfactory performance on an end-of-course assessment instrument to earn an endorsement on the student’s transcript.

Although the Act does not explicitly set a standard or define the term “sufficiently rigorous,” ARD committees must weigh the modifications included in the individualized educational program (IEP) for each student individually as applicable to each course and curriculum requirements in question to determine whether the curriculum, as modified, is sufficiently rigorous.

Q: In prior years, for students graduating under graduation code 35, endorsements were not allowed to be reported. How will this change?

A: Students graduating beginning in the 2019-2020 school year may be reported under graduation code 35 with endorsements. Requirements have been implemented in PEIMS for reporting allowance.

Q: Why am I receiving a “fatal error” for 2018-2019 graduates reported under graduation code 35?

A: Due to the implemented changes, graduation code 35 requires an additional reporting element. 2018-2019 graduates being reported under graduation code 35 must have a “0 - not participating” on endorsements additionally applied in the PEIMS reporting requirements. The fatal error is likely due to not entering the required value.

Q: 19 Texas Administrative Code (TAC) §89.1070, relating to graduation requirements currently contains language inconsistent with the changes in HB 165 and subsequent TEC §28.025 (c-7) and (c-8). When will this be changed and what should be applicable now?

A: The amendments adding TEC §28.025 (c-7) and (c-8) were applicable beginning September 1, 2019. The agency plans to propose changes to 19 TAC §89.1070, clarifying the statutory graduation requirements this school year.

