

1 STATE OF OKLAHOMA

2 1st Session of the 52nd Legislature (2009)

3 HOUSE BILL 2101

By: McPeak

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5  
6 AS INTRODUCED

7 An Act relating to schools; creating the Fair Testing  
8 Act; amending 70 O.S. 2001, Section 1210.508, as last  
9 amended by Section 4, Chapter 289, O.S.L. 2006 (70  
10 O.S. Supp. 2008, Section 1210.508), which relates to  
11 criterion-referenced tests and end-of-instruction  
12 tests; modifying requirement for administering end-  
13 of-instruction tests online; amending Section 6,  
14 Chapter 432, O.S.L. 2005, as amended by Section 6,  
15 Chapter 289, O.S.L. 2006 (70 O.S. Supp. 2008, Section  
16 1210.523), which relates to testing required to  
17 graduate from public high school; revising state  
18 academic content standards necessary to graduate with  
19 standard diploma; providing that remediation is  
20 determined by local board policy; authorizing  
21 technology center schools to provide intervention and  
22 remediation in additional subject areas to students  
23 living within technology center district; requiring  
24 alternative testing to include certain subjects;  
providing for noncodification; and providing an  
effective date.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

SECTION 1. NEW LAW A new section of law not to be  
codified in the Oklahoma Statutes reads as follows:

This act shall be known and may be cited as the "Fair Testing  
Act".

1 SECTION 2. AMENDATORY 70 O.S. 2001, Section 1210.508, as  
2 last amended by Section 4, Chapter 289, O.S.L. 2006 (70 O.S. Supp.  
3 2008, Section 1210.508), is amended to read as follows:

4 Section 1210.508 A. 1. The State Board of Education shall  
5 develop and administer a series of criterion-referenced tests  
6 designed to indicate whether the state academic content standards,  
7 as defined by the State Board of Education in the Priority Academic  
8 Student Skills Curriculum, which Oklahoma public school students are  
9 expected to have attained have been achieved. The Board may develop  
10 and administer any criterion-referenced test in any subject not  
11 required by federal law, contingent upon the availability of  
12 funding. Students who do not perform satisfactorily on tests shall  
13 be remediated, subject to the availability of funding.

14 2. Contingent upon the availability of state and federal funds,  
15 the Board, in accordance with federal law, shall administer  
16 criterion-referenced tests for grades three and four in:

- 17 a. reading, and
- 18 b. mathematics.

19 3. Contingent upon the availability of funds, the Board shall  
20 administer criterion-referenced tests for grade five in:

- 21 a. reading,
- 22 b. mathematics,
- 23 c. science,

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1           d.    social studies, which shall consist of the history,  
2                    Constitution and government of the United States, and  
3                    geography, and

4           e.    writing of English.

5           4.    Contingent upon the availability of state and federal funds,  
6 the Board, in accordance with federal law, shall administer  
7 criterion-referenced tests for grades six and seven in:

8           a.    reading, and

9           b.    mathematics.

10          In addition, the Board shall administer a criterion-referenced  
11 test in geography in grade seven.

12          5.    Contingent upon the availability of funds, the Board shall  
13 administer criterion-referenced tests for grade eight in:

14          a.    reading,

15          b.    mathematics,

16          c.    science,

17          d.    social studies, which shall consist of the history,

18                    Constitution, and government of the United States, and

19          e.    writing of English.

20          The Board shall administer the tests for grade eight in reading  
21 and mathematics online with raw score test results reported  
22 immediately and complete results reported in less than two (2) weeks  
23 beginning in the 2007-08 school year.

1           6. Each student who completes the instruction for English II,  
2 English III, United States History, Biology I, Algebra I, Geometry,  
3 and Algebra II at the secondary level shall complete an end-of-  
4 instruction test, when implemented, to measure for attainment in the  
5 appropriate state academic content standards in order to graduate  
6 from a public high school with a standard diploma. All students  
7 shall take the tests prior to graduation, unless otherwise exempt by  
8 law. The State Board of Education shall administer the criterion-  
9 referenced tests. The Board shall develop and field test the end-  
10 of-instruction tests in English III, Geometry, and Algebra II during  
11 the 2006-07 school year, implement the tests during the 2007-08  
12 school year, and administer them each year thereafter. The Board  
13 shall administer the multiple choice portion of the end-of-  
14 instruction tests online with raw score test results reported  
15 immediately and complete results reported in less than two (2) weeks  
16 beginning in the 2008-09 school year; provided, however, that the  
17 multiple choice portion of the end-of-instruction tests shall not be  
18 required to be offered online if desired by the local school  
19 district.

20           The end-of-instruction tests shall serve the purpose of the  
21 criterion-referenced tests as provided in paragraph 1 of this  
22 subsection. The English II and English III end-of-instruction tests  
23 shall include a writing component. Students who do not score at  
24 least at the satisfactory level shall be afforded the opportunity to

1 retake each test up to three (3) times each calendar year until at  
2 least achieving at the satisfactory level. In order to provide an  
3 indication of the levels of competency attained by the student in a  
4 permanent record for potential future employers and institutions of  
5 higher education, for students who enter the ninth grade in or prior  
6 to the 2007-08 school year, school districts shall report the  
7 highest achieved state test performance level on the end-of-  
8 instruction tests on the student's high school transcript.

9 Beginning with students who enter the ninth grade in the 2008-09  
10 school year, school districts shall report the student's performance  
11 levels of satisfactory and above on the end-of-instruction tests on  
12 the student's high school transcript. Any student at the middle  
13 school level who completes the instruction in a secondary course  
14 specified in this paragraph shall be administered the appropriate  
15 end-of-instruction test.

16 7. a. Each school district shall administer to each student  
17 in the school district in grades three through eight  
18 an assessment designed to assess the student in the  
19 fine arts area in which the student has received  
20 instruction.

21 b. Each school district shall prepare an annual report  
22 for approval by the State Board of Education outlining  
23 the fine arts assessment strategies used by the  
24 district, when the assessments were administered, how

1           many students were assessed during the previous year,  
2           and the results of the assessments.

3           B. 1. All criterion-referenced tests required by this section  
4 shall measure academic competencies in correlation with the state  
5 academic content standards adopted by the Board pursuant to Section  
6 11-103.6 of this title and known as the Priority Academic Student  
7 Skills Curriculum. The State Board of Education shall evaluate the  
8 academic content standards to ensure the competencies reflect high  
9 standards, are specific, well-defined, measurable, challenging, and  
10 will prepare elementary students for next-grade-level course work  
11 and secondary students for postsecondary studies at institutions of  
12 higher education or technology center schools without the need for  
13 remediation in core curriculum areas. All state academic content  
14 standards shall reflect the benchmarks of the American Diploma  
15 Project and the goal of improving the state average ACT score.

16           2. The State Department of Education shall annually evaluate  
17 the results of the criterion-referenced tests. The State Board of  
18 Education shall ensure that test results are reported to districts  
19 in a manner that yields detailed, diagnostic information for the  
20 purpose of guiding instruction and student remediation. As  
21 improvements are made to the criterion-referenced tests required by  
22 this section, the Board shall seek to increase the depth of  
23 knowledge assessed for each subject. The State Board of Education  
24 shall seek to ensure that data yielded from the tests required in

1 this section are utilized at the school district level to prescribe  
2 reinforcement and/or remediation by requiring school districts to  
3 develop and implement a specific program of improvement based on the  
4 test results.

5 3. The State Board of Education shall review, realign, and  
6 recalibrate, as necessary, the tests in reading and mathematics in  
7 third through eighth grade and the end-of-instruction tests. The  
8 Board shall determine the cut scores for the performance levels on  
9 the end-of-instruction tests developed pursuant to paragraph 6 of  
10 subsection A of this section, which shall be phased in over a multi-  
11 year period. The Board shall conduct an ongoing review to compare  
12 the end-of-instruction test content and performance descriptors with  
13 those of other states. Upon receipt of the review, the Board may  
14 adjust the cut scores as necessary.

15 4. The State Board of Education, for the purposes of conducting  
16 reliability and validity studies, monitoring contractor adherence to  
17 professionally accepted testing standards, and providing  
18 recommendations for testing program improvement, shall retain the  
19 services of an established, independent agency or organization that  
20 is nationally recognized for its technical expertise in educational  
21 testing but is not engaged in the development of aptitude or  
22 achievement tests for elementary or secondary level grades. These  
23 national assessment experts shall annually conduct studies of the  
24 reliability and validity of the end-of-instruction tests

1 administered pursuant to this section. Validity studies shall  
2 include studies of decision validity, concurrent validity and the  
3 validity of performance level cut scores.

4 C. 1. The State Board of Education shall set the testing  
5 window dates for each criterion-referenced test required in  
6 paragraphs 1 through 5 of subsection A of this section for grades  
7 three through eight so that, with the exception of the writing  
8 assessments, the tests are administered to students no earlier than  
9 April 10 each year and so that the test results are reported back to  
10 school districts in a timely manner. Each criterion-referenced test  
11 required in paragraph 6 of subsection A of this section may be  
12 administered to students at a time set by the State Board of  
13 Education as near as possible to the end of the course. All results  
14 and reports of the criterion-referenced test series required in  
15 paragraphs 1 through 5 of subsection A of this section for grades  
16 three through eight shall be returned to each school district prior  
17 to the beginning of the next school year. The vendor shall provide  
18 a final electronic data file of all school site, school district,  
19 and state results to the Department and the Office of Accountability  
20 prior to September 1 of each year. The Department shall forward the  
21 final data files for each school district and each school site in  
22 that district to the school district. The Board shall ensure the  
23 contract with the testing vendor includes a provision that the

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1 vendor report test results directly to the Office of Accountability  
2 at the same time it is reported to the Board.

3 2. State, district, and site level results of all tests  
4 required in this section shall be disaggregated by gender, race  
5 ethnicity, disability status, migrant status, English proficiency,  
6 and status as economically disadvantaged, except that such  
7 disaggregation shall not be required in a case in which the number  
8 of students in a category is insufficient to yield statistically  
9 reliable information or the results would reveal personally  
10 identifiable information about an individual student. Each school  
11 site shall notify the student's parents of the school's performance  
12 levels in the Oklahoma School Testing Program as reported in the  
13 Oklahoma Educational Indicators Program at the end of each school  
14 year.

15 D. The State Board of Education shall be responsible for the  
16 development, field-testing, and validation of the criterion-  
17 referenced test series required in subsection A of this section. In  
18 the interest of economy the Board shall adapt criterion-referenced  
19 tests that have been developed by or in collaboration with other  
20 states or are otherwise commercially available, or portions of such  
21 tests, to the extent that such tests are appropriate for use in the  
22 testing program to be administered to Oklahoma students.

23 E. The Board shall develop, administer, and incorporate as a  
24 part of the Oklahoma School Testing Program, other testing programs

1 or procedures, including appropriate accommodations for the testing  
2 of students with disabilities as required by the Individuals with  
3 Disabilities Education Act (IDEA), 20 USC, Section 1400 et seq.

4 SECTION 3. AMENDATORY Section 6, Chapter 432, O.S.L.  
5 2005, as amended by Section 6, Chapter 289, O.S.L. 2006 (70 O.S.  
6 Supp. 2008, Section 1210.523), is amended to read as follows:

7 Section 1210.523 A. Except as provided in subsections D and E  
8 of this section, beginning with students entering the ninth grade in  
9 the 2008-2009 school year, every student shall demonstrate mastery  
10 of the state academic content standards in four of the following  
11 eight subject areas in order to graduate from a public high school  
12 with a standard diploma:

- 13 1. Algebra I;
- 14 2. ~~English~~ Algebra II; and
- 15 3. ~~Two of the following five:~~
  - 16 a. ~~Algebra II,~~
  - 17 b. ~~Biology I,~~
  - 18 c. ~~English III,~~
  - 19 d. ~~Geometry, and~~
  - 20 e. English II;
- 21 4. English III;
- 22 5. Biology I;
- 23 6. Geometry;
- 24 7. United States History; and

1        8. High-school-appropriate Reading.

2            B. To demonstrate mastery, the student shall attain at least a  
3 satisfactory score on the end-of-instruction criterion-referenced  
4 tests administered pursuant to Section 1210.508 of this title.

5            C. Notwithstanding any other provision of law, students who do  
6 not attain at least a satisfactory score on any end-of-instruction  
7 test shall be provided remediation, as determined by local board  
8 policy, and the opportunity to retake the test until at least a  
9 satisfactory score is attained on ~~the tests of Algebra I, English II~~  
10 ~~and two of the tests~~ in four of the eight subject areas required in  
11 ~~paragraph 3 of~~ subsection A of this section or an approved  
12 alternative test. Technology center schools shall be authorized to  
13 provide intervention and remediation in Algebra I, Algebra II,  
14 Geometry, English II, English III, United States History, and  
15 Biology I to students ~~enrolled in~~ living within the technology  
16 center ~~schools~~ district, with the approval of the independent school  
17 district board.

18            D. 1. Students who do not meet the requirements of subsection  
19 A of this section may graduate from a public high school with a  
20 standard diploma by demonstrating mastery of state academic content  
21 standards by alternative methods as approved by the State Board of  
22 Education. Alternative methods for testing shall include WorkKeys  
23 and any subject areas accredited by the Southern Regional Education  
24 Board.

1           2. The State Board of Education shall adopt rules providing for  
2 necessary student exceptions and exemptions to the requirements of  
3 this section. The Board shall collect data by school site and  
4 district on the number of students provided and categories of  
5 exceptions and exemptions granted. Beginning October 1, 2012, the  
6 Board shall provide an annual report of this data to the Governor,  
7 President Pro Tempore of the State Senate and Speaker of the House  
8 of Representatives.

9           E. 1. Students who have individualized education programs  
10 pursuant to the Individuals with Disabilities Education Act (IDEA)  
11 shall have an appropriate statement on the student's individualized  
12 education program requiring administration of the assessment with or  
13 without accommodations or an alternate assessment. Any  
14 accommodations normally employed for the assessment shall be  
15 approved by the State Board of Education and be provided for in the  
16 individualized education program. All documentation for each  
17 student shall be on file in the school prior to administration of  
18 the assessment.

19           2. Students identified as English language learners shall be  
20 assessed in a valid and reliable manner with the state academic  
21 assessments with acceptable accommodations as necessary or, to the  
22 extent practicable, with alternate assessments aligned to the state  
23 assessment provided by the school district in the language and form  
24

1 most likely to yield accurate data of the student's knowledge of the  
2 content areas.

3 F. The State Board of Education shall be authorized to contract  
4 with an entity to develop and advise on the implementation of a  
5 communications campaign to build public understanding of and support  
6 for the testing requirements of this section.

7 SECTION 4. This act shall become effective November 1, 2009.

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