

1 STATE OF OKLAHOMA

2 1st Session of the 54th Legislature (2013)

3 HOUSE BILL 1360

By: Hulbert

4
5
6 AS INTRODUCED

7 An Act relating to schools; amending 70 O.S. 2011,
8 Section 1210.508, as last amended by Section 8,
9 Chapter 354, O.S.L. 2012 (70 O.S. Supp. 2012, Section
10 1210.508), which relates to the Oklahoma School
11 Testing Program Act; deleting requirement for
12 completion of certain end-of-instruction tests;
13 requiring certain students to take the American
14 College Test assessment prior to graduation; deleting
15 certain test development requirements; modifying
16 certain retesting and reporting requirements;
17 deleting certain duties of the Commission for
18 Educational Quality and Accountability; deleting
19 certain validity study requirements; deleting certain
20 test administration scheduling timeframes; amending
21 70 O.S. 2011, Sections 1210.523, as amended by
22 Section 1, Chapter 96, O.S.L. 2012 and 1210.526 (70
23 O.S. Supp. 2012, Section 1210.523), which relate to
24 the Achieving Classroom Excellence Act of 2005;
modifying criteria for determining mastery of state
academic content standards; adding an attendance
record requirement; deleting certain content area
tests; replacing end-of-instruction tests with the
American College Test assessment; setting minimum
American College Test composite score required to
demonstrate mastery; modifying remediation
requirements; changing appeal process to the board of
education of a school district; modifying remediation
funding eligibility criteria; updating statutory
language; providing an effective date; and declaring
an emergency.

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

1 SECTION 1. AMENDATORY 70 O.S. 2011, Section 1210.508, as
2 last amended by Section 8, Chapter 354, O.S.L. 2012 (70 O.S. Supp.
3 2012, 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 at least at the proficient
13 level on tests shall be remediated, subject to the availability of
14 funding.

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

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

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

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

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,~~ take the American College Test
5 (ACT) assessment to measure for attainment in the appropriate state
6 academic content standards in order to graduate from a public high
7 school with a standard diploma. All students shall take the ~~tests~~
8 ACT assessment prior to graduation, unless otherwise exempt by law.
9 The State Board of Education shall administer the ~~riterion-~~
10 ~~referenced tests~~ ACT assessment. ~~The Board shall develop and field~~
11 ~~test the end-of-instruction tests in English III, Geometry, and~~
12 ~~Algebra II during the 2006-07 school year, implement the tests~~
13 ~~during the 2007-08 school year, and administer them each year~~
14 ~~thereafter. The Board shall administer the multiple choice portion~~
15 ~~of the end-of-instruction tests online with raw score test results~~
16 ~~reported immediately and complete results reported in less than two~~
17 ~~(2) weeks beginning in the 2008-09 school year.~~

18 ~~The end-of-instruction tests shall serve the purpose of the~~
19 ~~riterion-referenced tests as provided in paragraph 1 of this~~
20 ~~subsection. The English II and English III end-of-instruction tests~~
21 ~~shall include a writing component. Students who do not~~ attain a
22 minimum composite score at least at the proficient level as set
23 forth in subsection B of Section 1210.523 of this title shall be
24 afforded the opportunity to retake each test up to three ~~(3) times~~

1 the ACT assessment each calendar year until at least achieving at
2 the ~~proficient level~~ minimum composite score. In order to provide
3 an indication of the levels of competency attained by the student in
4 a permanent record for potential future employers and institutions
5 of higher education, for students who enter the ninth grade in ~~or~~
6 ~~prior 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 highest-achieved
11 ~~state test performance level on the end-of-instruction tests~~ ACT
12 composite score and any business and industry-recognized
13 endorsements attained on the student's high school transcript. ~~Any~~
14 ~~student at the middle school level who completes the instruction in~~
15 ~~a secondary course specified in this paragraph shall be administered~~
16 ~~the appropriate end-of-instruction test.~~

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

22 b. Each school district shall prepare an annual report
23 for approval by the State Board of Education outlining
24 the fine arts assessment strategies used by the

1 district, when the assessments were administered, how
2 many students were assessed during the previous year,
3 and the results of the assessments.

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

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

1 shall seek to ensure that data yielded from the tests required in
2 this section are utilized at the school district level to prescribe
3 reinforcement and/or remediation by requiring school districts to
4 develop and implement a specific program of improvement based on the
5 test results.

6 3. The State Board of Education in coordination with the Office
7 of Educational Quality and Accountability shall review, realign, and
8 recalibrate, as necessary, the tests in reading and mathematics in
9 third through eighth grade ~~and the end-of-instruction tests.~~ The
10 ~~Commission for Educational Quality and Accountability shall~~
11 ~~determine the cut scores for the performance levels on the end-of-~~
12 ~~instruction tests developed pursuant to paragraph 6 of subsection A~~
13 ~~of this section. The Commission shall conduct an ongoing review to~~
14 ~~compare the end-of-instruction test content and performance~~
15 ~~descriptors with those of other states. Upon receipt of the review,~~
16 ~~the Commission may adjust the cut scores as necessary.~~

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

1 ~~national assessment experts shall annually conduct studies of the~~
2 ~~reliability and validity of the end-of-instruction tests~~
3 ~~administered pursuant to this section. Validity studies shall~~
4 ~~include studies of decision validity and concurrent validity.~~

5 C. 1. The State Board of Education shall set the testing
6 window dates for each criterion-referenced test required in
7 paragraphs 1 through 5 of subsection A of this section for grades
8 three through eight so that, with the exception of the writing
9 assessments, the tests are administered to students no earlier than
10 April 10 each year and so that the test results are reported back to
11 school districts in a timely manner. ~~Each criterion-referenced test~~
12 ~~required in paragraph 6 of subsection A of this section may be~~
13 ~~administered to students at a time set by the State Board of~~
14 ~~Education as near as possible to the end of the course; provided, if~~
15 ~~a school district is unable to administer the tests online to all~~
16 ~~students taking the test for the first time and all students~~
17 ~~retaking the test during the testing window time set by the Board,~~
18 ~~the school district may elect to administer any of the tests to~~
19 ~~students retaking the test at any time not more than two (2) weeks~~
20 ~~prior to the start of the testing window time set by the Board. All~~
21 results and reports of the criterion-referenced test series required
22 in paragraphs 1 through 5 of subsection A of this section for grades
23 three through eight shall be returned to each school district prior
24 to the beginning of the next school year. The vendor shall provide

1 a final electronic data file of all school site, school district,
2 and state results to the State Department of Education and the
3 Office of Educational Quality and Accountability prior to September
4 1 of each year. The Department shall forward the final data files
5 for each school district and each school site in that district to
6 the school district. The Board shall ensure the contract with the
7 testing vendor includes a provision that the vendor report test
8 results directly to the Office of Educational Quality and
9 Accountability at the same time it is reported to the Board.

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

22 D. The State Board of Education shall be responsible for the
23 development, field-testing, and validation of the criterion-
24 referenced test series required in subsection A of this section. In

1 the interest of economy the Board shall adapt criterion-referenced
2 tests that have been developed by or in collaboration with other
3 states or are otherwise commercially available, or portions of such
4 tests, to the extent that such tests are appropriate for use in the
5 testing program to be administered to Oklahoma students.

6 E. The State Board of Education shall develop, administer, and
7 incorporate as a part of the Oklahoma School Testing Program, other
8 testing programs or procedures, including appropriate accommodations
9 for the testing of students with disabilities as required by the
10 Individuals with Disabilities Education Act (IDEA), 20 USC, Section
11 1400 et seq.

12 SECTION 2. AMENDATORY 70 O.S. 2011, Section 1210.523, as
13 amended by Section 1, Chapter 96, O.S.L. 2012 (70 O.S. Supp. 2012,
14 Section 1210.523), is amended to read as follows:

15 Section 1210.523 A. Except as provided in subsections D and ~~E~~
16 F of this section, beginning with students ~~entering the ninth grade~~
17 ~~in the 2008-2009~~ graduating in the 2013-2014 school year, every
18 student shall demonstrate mastery of the state academic content
19 standards ~~in the following subject areas~~ and shall have attained a
20 cumulative attendance record of ninety percent (90%) or more in
21 grades nine through twelve in order to graduate from a public high
22 school with a standard diploma:

- 23 1. ~~Algebra I;~~
- 24 2. ~~English II; and~~

1 3. ~~Two of the following five:~~

2 a. ~~Algebra II,~~

3 b. ~~Biology I,~~

4 c. ~~English III,~~

5 d. ~~Geometry, and~~

6 e. ~~United States History.~~

7 B. To demonstrate mastery, the student shall ~~attain at least a~~
8 ~~proficient score on the end-of-instruction criterion-referenced~~
9 ~~tests administered pursuant to Section 1210.508 of this title~~ take
10 the American College Testing (ACT) assessment and achieve a
11 composite score of sixteen (16) or above.

12 C. Notwithstanding any other provision of law, students who do
13 not attain at least a ~~proficient score on any end-of-instruction~~
14 ~~test~~ the minimum composite score on the ACT assessment as required
15 in subsection B of this section shall be provided remediation or
16 intervention and the opportunity to retake the ~~test~~ ACT assessment
17 until at least a ~~proficient~~ the minimum composite score is attained
18 ~~on the tests of Algebra I, English II and two of the tests required~~
19 ~~in paragraph 3 of subsection A of this section~~ on the ACT assessment
20 or an approved alternative test. Technology center schools shall be
21 authorized to provide intervention and remediation ~~in Algebra I,~~
22 ~~Algebra II, Geometry, English II, English III, United States~~
23 ~~History, and Biology I~~ to students enrolled in technology center
24 schools, with the approval of the independent school district board.

1 D. 1. Students who do not meet the requirements of subsection
2 A of this section may graduate from a public high school with a
3 standard diploma by demonstrating mastery of state academic content
4 standards by alternative methods as approved by the State Board of
5 Education.

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

14 E. 1. ~~The State Board of Education~~ Each board of education of
15 a school district shall adopt ~~rules~~ a policy establishing an appeal
16 process for students who have been denied a standard diploma by the
17 school district in which the student is or was enrolled for failing
18 to meet the requirements of this section. A student who has been
19 denied a standard diploma by the school district in which the
20 student is enrolled shall have thirty (30) days after denial of the
21 standard diploma in which to file a petition for an appeal to the
22 ~~Board~~ school district board of education. The ~~Board~~ school district
23 board of education shall take action on a petition for an appeal no
24 later than forty-five (45) days after receiving the petition.

1 2. The State Board of Education shall collect data by school
2 site and school district on the number of students petitioning for
3 an appeal and the number of appeals approved ~~by the Board~~ pursuant
4 to this subsection. Beginning October 1, 2012, the Board shall
5 provide an annual report of this data to the Governor, President Pro
6 Tempore of the State Senate and Speaker of the House of
7 Representatives.

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

18 2. Students identified as English language learners shall be
19 assessed in a valid and reliable manner with the ~~state academic~~
20 ~~assessments~~ ACT assessment with acceptable accommodations as
21 necessary or, to the extent practicable, with alternate assessments
22 ~~aligned to the state assessment~~ provided by the school district in
23 the language and form most likely to yield accurate data of the
24 student's knowledge of the content areas.

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

5 SECTION 3. AMENDATORY 70 O.S. 2011, Section 1210.526, is
6 amended to read as follows:

7 Section 1210.526 A. Contingent on the provision of
8 appropriated funds designated for the Achieving Classroom Excellence
9 Act of 2005, school districts shall be eligible for funding as
10 follows:

11 1. A maximum of Two Hundred Forty Dollars (\$240.00) for
12 remediation or intervention for each subject-specific test by a
13 student that resulted in a score at the unsatisfactory level or that
14 results in an American College Test (ACT) assessment composite score
15 below the minimum as set forth in subsection B of Section 1210.523
16 of this title and for which the student has been found to be in need
17 of remediation or intervention pursuant to Sections 1210.522 and
18 1210.523 of ~~Title 70 of the Oklahoma Statutes~~ this title;

19 2. A maximum of One Hundred Eighty Dollars (\$180.00) for
20 remediation or intervention for each subject-specific test by a
21 student that resulted in a score at the limited knowledge level and
22 for which the student has been found to be in need of remediation or
23 intervention pursuant to Sections 1210.522 and 1210.523 of ~~Title 70~~
24 ~~of the Oklahoma Statutes~~ this title;

1 3. Funds for remediation or intervention as provided for in
2 paragraphs 1 and 2 of this subsection shall be disbursed by the
3 State Department of Education by September 1 of each year and shall
4 be based on the most recent test results available from the previous
5 school year or summer test administration; and

6 4. Claims for reimbursement for costs associated with
7 administration of alternative assessments as required by Section
8 1210.523 of ~~Title 70 of the Oklahoma Statutes~~ this title shall be
9 filed with the State Department of Education at the end of each
10 school semester or prior to the end of the fiscal year in which the
11 alternative assessment is provided. Claims from summer alternative
12 assessment administration provided in July or August shall be filed
13 with the first semester claim of the subsequent school year. Claims
14 shall be reimbursed in a timely manner.

15 B. Funds for remediation or intervention as provided for in
16 subsection A of this section may be used to provide remediation or
17 intervention to any student in grade 6 through grade 12 who has been
18 determined to be in need of remediation or intervention, including
19 but not limited to those students who have scored at the
20 unsatisfactory or limited knowledge level or who have scored below
21 the minimum composite score on the ACT assessment.

22 C. Remediation and intervention provided pursuant to this
23 section by school districts shall be for the purpose of assisting
24 students in performing at least at the satisfactory level on the

1 applicable criterion-referenced tests in reading and mathematics at
2 the eighth-grade level, or ~~the applicable end-of-instruction tests~~
3 ACT assessment as required in Section 1210.523 of ~~Title 70 of the~~
4 ~~Oklahoma Statutes~~ this title, or an alternative assessment if
5 eligible. Remediation and intervention may be provided by means
6 which may include, but are not limited to, tutoring, additional help
7 during the school day, extended-day programs, Saturday programs,
8 summer programs, online coursework, or other supplementary services
9 which are provided on an individual basis or in a classroom setting.

10 D. School districts shall report on their use of funds for
11 remediation and intervention as provided for in this section to the
12 State Board of Education in a manner prescribed by the Board.

13 E. The State Board of Education shall promulgate rules to
14 implement the provisions of this section.

15 SECTION 4. This act shall become effective July 1, 2013.

16 SECTION 5. It being immediately necessary for the preservation
17 of the public peace, health and safety, an emergency is hereby
18 declared to exist, by reason whereof this act shall take effect and
19 be in full force from and after its passage and approval.

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