



Response to the House Public Education Committee's Formal Request for Information on Interim Charge 1[B]

September 30, 2020

The Association of Texas Professional Educators (ATPE) appreciates this opportunity to provide input on the House Public Education Committee's Formal Request for Information on Interim Charge 1[B]. This charge seeks input on public school accountability, assessment, interventions, and school district-charter partnerships. Incorporated within this request are the state's A-F accountability rating system and the State of Texas Assessments of Academic Readiness (STAAR). The committee has also requested feedback on implementation of the following bills: HB 1842 (84R), HB 22 (85R), SB 1882 (85R), and HB 3906 (86R).

We begin with general feedback on the state's testing and accountability system. Student testing, along with the high stakes attached to STAAR, has consistently ranked among the top three concerns voiced by ATPE members. Test results can shape the direction of a student's education future and life. The outsized role of standardized tests influences how students are taught, textbooks are written, courses are designed, money is dedicated, and time is spent. Educators' paychecks and continued employment depend largely on their appraisals, which are greatly influenced by student testing data. Relying too heavily on standardized testing data to draw conclusions about teacher effectiveness can lead to invalid results, especially when the STAAR was never designed for that purpose. Likewise, for schools that receive poor accountability grades based on student test performance, consequences can be harsh, including private management or even closure.

Although much standardized testing in Texas is mandated by the federal government through the Elementary and Secondary Education Act (ESEA), it is worth noting Texas requires more testing and attaches more high stakes to its testing than necessary to meet the demands of federal law. In addition to being the linchpin of the state's accountability system, STAAR data has been used as the basis for funding schools, granting waivers and exceptions of myriad laws, deciding whether students should be promoted or allowed to graduate, evaluating teacher and principal effectiveness, deciding whether educators should continue to be employed, and determining how much educators are paid. Countless incentive and merit pay programs have been closely linked to student testing data, including the Teacher Incentive Allotment included in last year's House Bill (HB) 3.

COVID-19 now demands that our testing and accountability be examined through a new lens, at least for the near-term future. When the pandemic forced schools to close their doors and move students to a remote learning environment in spring 2020, it was immediately clear it would be impossible for states to carry out standardized testing requirements. The U.S. Department of Education prudently waived federal testing and accountability requirements for the 2019-20 school year. Under orders from Gov. Greg Abbott, STAAR tests were not administered, and Texas schools were officially "Not Rated: Declared State of Disaster" for the 2019-20 school year.

The Association of Texas Professional Educators (ATPE) has been a strong voice for Texas educators since 1980. It is the leading educators' association in Texas with 100,000 members statewide. With its strong collaborative philosophy, ATPE speaks for classroom teachers, administrators, future, retired and para-educators and works to create better opportunities for 5 million public schoolchildren. ATPE is the ally and the voice of Texas public school educators.

As of late September 2020, many Texas students still have not returned to physical classrooms. Teachers are struggling to teach in-person classes and provide virtual lessons for those students still at home. Class schedules and staffing assignments have been disrupted. As ATPE has detailed in our written response to this committee's Formal Request for Information on COVID-19, students and staff alike are dealing with the stark effects of the pandemic on the learning environment while also managing fears of the disease, economic setbacks caused by COVID-19, and even the illness or death of loved ones. Against this harsh backdrop is the looming obligation of STAAR testing and its attached consequences.

Commissioner of Education Mike Morath has expressed his intent to hold firm on the state's testing and accountability requirements this year. Similarly, U.S. Secretary of Education Betsy DeVos has warned states not to expect another waiver. Notwithstanding these officials' loyalty to the juggernaut of assessments, a growing chorus of bipartisan voices—including ATPE's members—are urging their governments to hit the pause button on testing this year. Other states have pressed forward in advocating for a second-year waiver of the federal requirements, and Texas should follow suit. The lingering effects of the COVID-19 pandemic make it unreasonable to force schools to prioritize testing at a time when they have more pressing and fundamental needs to address, such as ensuring health and safety. Furthermore, Texas faces a mounting budget deficit, and pandemic-related costs are still adding up for school districts. Considering the billions of dollars the State of Texas has spent on STAAR, there is an opportunity for substantial savings if we forego standardized testing this year.

In July 2020, the ATPE House of Delegates adopted a resolution to “urge the State of Texas and the U.S. Department of Education to waive requirements to administer the 2020-21 STAAR and TELPAS due to the disruption of in-person instruction caused by the COVID-19 pandemic.” Proponents of the resolution cited critical learning time students lost to the pandemic this spring and the urgency for teachers to focus efforts this fall on fostering student learning rather than test preparation. Not only will mandatory standardized tests take up too much time and attention this year—resources needed for remediation and emotional support as students deal with impact of COVID-19—but also the tests will yield flawed and incomplete data that could unfairly punish students, educators, and entire schools. For example, supporters of the ATPE resolution pointed out that many English language learners struggle even more in a remote learning environment and could be more negatively impacted by unfair testing. ATPE delegates also observed educational quality varied widely when schools were forced to move to a remote environment in the previous school year, making it harder to compare outcomes in the current school year.

Under the most favorable circumstances, the standardized testing regime dominates the education environment and the school year—driving curriculum and lesson planning, dictating school schedules, constraining instruction, and stressing out students and their anxious parents. COVID-19 has presented us with the most *unfavorable* circumstances, and ATPE believes it is a grave mistake to hold schools hostage to the tests in 2020-21.

Next, we turn our attention to the committee's request for input on the implementation of certain bills related to testing and accountability. Passed by the 84th Legislature in 2015, **HB 1842** addressed numerous aspects of the state's accountability system for public schools. The bill implemented a five-year timeline for accountability sanctions and interventions, including the replacement of a school board or charter governing board with an appointed board of managers if a district or charter fails to improve the performance of a persistently low-performing campus. HB 1842 vacated earlier statutory provisions, which ATPE opposed, that

mandated or strongly encouraged the indiscriminate removal of principals and classroom teachers from struggling campuses.

One of the most controversial components of HB 1842 was its authorization of Districts of Innovation (DOI), which was added to the bill late in the session after stand-alone DOI legislation had failed to pass. HB 1842 enabled certain acceptably rated school districts to claim exemptions from various statutes in the Texas Education Code (TEC) that district leaders believed would otherwise impede their planned “innovations.” School districts viewed the bill as creating parity with charter schools Texas had already exempted from numerous education laws, arguably in the name of promoting innovation. In the five years since the DOI law was enacted, hundreds of districts have used the law to exempt themselves from legal requirements rarely tied to any innovative instructional approaches. The most popular exemption claimed by far is the school start date restriction (Texas Education Code Sec. 25.0811). Even before the pandemic, class-size restrictions in elementary grades and teacher certification requirements were the second and third most popular exemptions claimed by DOIs.

COVID-19 has presented novel challenges and necessitated deviations from laws and rules that would otherwise prevent schools from safely operating this year. ATPE acknowledges the DOI law has made it easier during this unusual 2020-21 school year to provide needed flexibility to many schools; specifically, DOIs have had options to modify their school calendars at a time when the Legislature was not in session to consider potential changes to school calendar statutes. However, ATPE remains concerned about the long-term impact of the DOI law and the lack of evidence demonstrating it has resulted in positive innovations. ATPE recommends the Legislature revisit the DOI law once Texas schools are no longer dealing with the extraordinary circumstances presented by the pandemic.

Our state’s **A-F rating system for public schools** originated in 2013 with the passage of HB 5 (83R) and was tweaked by HB 2804 (84R) in 2015 and **HB 22 (85R)** in 2017. ATPE has long opposed assigning letter grades to schools and labeling them as failures. We believe such an accountability system stigmatizes and harms students and educators at these schools. Indeed, several other states that experimented early on with A-F accountability systems later abandoned these approaches as harmful to students and disruptive to educator recruitment efforts. Touted as a way to provide clearer information to parents, A-F accountability grades actually give a misguided, narrow snapshot based heavily on the state’s unpopular standardized testing system and without taking into account other important factors such as poverty, food insecurity, homelessness, and adverse childhood experiences/trauma, all of which strongly influence the outcomes measured by the A-F system but are often outside the scope of an individual educators’ control. Closely linked to harmful political rhetoric used to deride “failing” public schools, A-F accountability grades have been directly cited as a means to advance private school voucher legislation that would divert precious taxpayer dollars away from public schools and into the coffers of unregulated private entities.

Although we have maintained our objection to the use of A-F accountability grades, ATPE supported **HB 22** passed by the 85th Legislature in 2017, which tweaked the A-F system by moving from five to three domains (Student Achievement, School Progress, and Closing the Gaps) and drawing greater distinctions between “D” and “F” grades assigned to districts and campuses. HB 22 also permitted a few districts to create additional locally developed accountability domains to be factored into their A-F ratings.

Despite improvements to the original A-F plan making it less punitive, many still question the efficacy of the system overall. Studies have raised concerns, for instance, about high rates of

college remediation needed for students who graduated from A- and B-rated schools. The fact that schools with high poverty are more apt to be F-rated is another serious concern. Also, since the inception of the A-F system and even with its more recent tweaks, the Legislature has delegated to the commissioner of education—a single individual appointed by the governor—an extraordinary amount of responsibility for ironing out details of the system’s design.

Although our state’s accountability system has been almost entirely focused on outcomes, ATPE has long advocated for including inputs in the state’s accountability system, such as ensuring students are taught by educators who are certified in the subjects and grade levels they teach. We believe such measures are more directly controlled by districts and individual educators than other factors and typically lead to better student outcomes. Even since the implementation of HB 22, ATPE, school superintendents, and other public education advocates have recommended lawmakers improve the state’s accountability system to incorporate such inputs and allow for more nuanced considerations, such as measuring the impact of poverty on student test scores and school accountability ratings.

HB 3906 passed by the Legislature in 2019 made several changes to laws governing the administration and content of state assessments. The ATPE-supported bill calls for creating multiple smaller test sections that can be administered over multiple days (by 2021-22); eliminating STAAR writing tests in grades 4 and 7 (by 2021-22); prohibiting the administration of STAAR tests on the first day of the week; transitioning to electronic assessments (by 2022-23); allowing no more than 75% of the questions on any STAAR test to be multiple choice (by 2022-23); establishing an optional integrated formative assessment pilot program; developing interim assessments for district use; and creating an educator assessment advisory committee. Although HB 3906 provides for many positive changes to the accountability system, most of its requirements have yet to be implemented.

Although not delineated in the committee’s request for information, ATPE also encourages the members to consider another vital piece of accountability-related legislation that has provided great benefit to students in recent years. In 2015, the Legislature passed SB 149 (84R) by Sen. Kel Seliger creating **Individual Graduation Committees (IGCs)** to allow high school juniors and seniors who fail to pass a required end-of-course exam to be considered for eligibility to graduate. The IGC conducts a more comprehensive review of the student’s academic performance and may require the student to complete additional work to demonstrate the student’s preparedness for post-secondary success. IGCs have helped many deserving students successfully pursue post-secondary education and escape the punishment of being defined by their inability to pass a single test. The original IGC bill had a two-year life span, but the legislature passed Seliger’s SB 463 (85R) in 2017 extending the expiration date of the bill to September 2019. Last session, Sen. Seliger’s SB 213 (86R) extended the expiration date to Sept. 1, 2023. Each of the aforementioned bills has attempted to make the IGC law permanent, which ATPE again urges the Legislature to do in 2021.

Finally, this committee has requested feedback on SB 1882 passed by the Legislature in 2017. This bill created financial and accountability-based incentives for districts to enter into campus partnership agreements, which have come to be known as “1882 agreements,” with third-party entities, most of whom are charter operators. The committee has asked several questions about these partnerships, the resources needed to implement them, their susceptibility of being replicated, and whether they have been successful at turning around failing campuses and increasing student achievement, especially as compared with other educational arrangements.

Although ATPE believes in fostering community collaboration and partnerships to support public schools, SB 1882 from its inception seemed little more than an attempt to game the system, whether by shaming the state into giving more money to districts by tying campuses to richer charter school funding formulas, or by persuading districts to voluntarily turn over their campuses to privately run charter operators in exchange for a few extra dollars and the guise of a two-way partnership. Throughout the 2017 legislative session, ATPE called for more input and control from the educators who staffed and the families whose children attended the campuses subject to these agreements. Additionally, we maintained that if lawmakers truly wanted to incentivize districts to implement innovative partnerships, especially on struggling campuses, then the state would not arbitrarily pick winners and losers by incentivizing models with no research basis over other equally or better situated alternatives for school turnaround. Our concerns went largely unanswered.

Since SB 1882 was passed, it has gone through two rounds of rule-making, each further diminishing the role of the ISD by limiting the authority of its duly elected school board to manage a campus subject to an 1882 agreement and by making it less feasible to enter into an 1882 agreement with a third-party entity that is not a charter operator. It has become clear that SB 1882, from the current commissioner's perspective, is little more than a vehicle to transition traditional control of campuses away from local communities and school districts to privately managed charter operators.

ATPE has consistently opposed laws that turn over the management of a public school district or campus to a private entity that has not been selected by and is not accountable to voters. We believe these types of accountability sanctions or interventions are problematic because they erode the accountability and transparency of school boards elected at the local level by parents, educators, and other taxpayers. Historically, such takeovers have also failed to provide benefits for the affected students and have had a detrimental impact on the educators employed on the campuses subject to these takeovers. Although 1882 agreements may offer the veneer of a voluntary partnership, the rules and incentives behind them make them in reality no different from other school takeover vehicles. We also have not seen evidence to support a conclusion that 1882 partnerships are more economical, more likely to improve student achievement, or worthy of replication.

If the state truly wishes to offer campuses, struggling or otherwise, additional funding, the Legislature should do so in a uniform way through the school finance formulas and without requiring traditional school districts to turn over their neighborhood schools to privately managed charter operators. Similarly, if the state wishes to incentivize struggling schools to seek outside partnerships to bolster performance in the accountability system, the state should focus on indicators of programmatic quality rather than preferring specific vendors and should seek to ensure such relationships are actual partnerships, not predatory takeovers.

ATPE appreciates the opportunity to provide feedback during this process and invites House Public Education committee members and their staff to contact ATPE Governmental Relations at (800) 777-2873 or government@atpe.org for any additional information.