The Lies of Texas

The Continued Damage Inflicted by the "Texas Education Miracle" on Disadvantaged Students

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Prologue

Numbers. Damnable numbers.

For over three decades, the Texas Education Agency (TEA) has published literally billions of numbers which, it asserts, document its dramatic success in closing academic achievement gaps for economically-disadvantaged students statistically dominated by children of color. The TEA has spent literally billions of dollars implementing and self-evaluating that entire system as having genuine academic credibility. This treatise dissects and memorializes the assertion that the State's billions of numbers and billions of dollars have in fact produced a systemic, pervasive and academically-dishonest system that has devalued any semblance of credibility in the context of constitutional equity for at-risk children.

At the heart and soul of three decades of deception is the reality that the State of Texas has not closed the academic achievement gap with any semblance of academic integrity.

This treatise documents three harsh realities:

1. The State of Texas used its money and power to implement a broad-based, institutional lie that its accountability system is academically credible.
2. At-risk students in particular, but others as well, have paid a horrific price in terms of their academic futures due to the State's deception, primarily enacted under consistent political motivations by those who controlled the levers of power.
3. Far too many so-called "defenders" of children, including civil rights attorneys, acquiesced to this failure to protect children's academic futures.

At the very core of this three-decade saga of accountability testing, we find three questions, which are basically the same question:

1. Does the State of Texas' self-granted constitutional power to define the "general diffusion of knowledge" give it power which cannot be successfully challenged judicially in state or federal court?
2. When the Texas Legislature enunciated in 1993—and the Supreme Court of Texas validated in 1995—that the closure of the achievement gap for such students defined the Legislature's "contours of constitutional duty to provide a general diffusion of knowledge," did the State create a substandard, lesser constitutional right for at-risk children?

3. If Senate Bill 7 of the 73rd Legislative Session in 1993 did define a constitutional right for academic equity gap closure for an entire class of students, does the State's constitutional authority permit it unwavering power to concoct and implement a scheme that denies Texas students, dominated by children of color, their rights?

In 2018, the author of this treatise, as a representative of the Katy Independent School District Board of Trustees on the Board of Directors of the Texas Association of School Boards (TASB), directly asked Texas Education Agency Commissioner Michael Morath about the TEA's academic definition of "constitutional equity." The exchange was not recorded, but dozens of TASB Directors witnessed the exchange. Importantly, Commissioner Morath answered the question honestly, even if reluctantly. The exchange might be summarized as follows:

Scott: Commissioner, how does the Texas Education Agency define having met its statutory and constitutional burden of closing the academic equity gap: by the STAAR cut score of "approaches" [grade level] or the cut score of "meets" [grade level]?

Morath: Well, I don't want to get into the precise legal issues.... [Scott politely interrupts.]

Scott**:** That is exactly what I want you to do. Let me re-phrase the question: How does the Texas Education Agency define having met its statutory and constitutional burden to close the academic equity gap pursuant to Senate Bill 7, passed by the Texas Legislature in 1993, the Supreme Court of Texas decision in January 1995 confirming the constitutionality of Senate Bill 7, and the January 2000 decision by the Federal District Court in San Antonio confirming and referencing the statutory decision of the Texas Legislature? Does the TEA use the cut score of "approaches" or the cut score of "meets"?

Morath**:** The cut score of "approaches."

In a moment of unmitigated honesty, when confronted by someone whom he knew understood the reason for his initial reaction, Morath told the truth in front of witnesses. The direct answer to that simple but profound question acknowledged that the TEA defines constitutional equity as including below-grade-level performance.

Drawing from one of the great lines of literature, does the State of Texas have immunity to employ the same skills that Tennessee Williams

referenced with the stage magician in *The Glass Menagerie* of whom he wrote, "He gives you illusion that has the appearance of truth"?

Sadly, it seems that Texas has "gotten away" with a "yes" to that question. *The Lies of Texas* will explore this, explain how this can happen, and challenge defenders and advocates—including civil rights attorneys and significant individuals and organizations—who have the power and resources to stop acquiescing to this human tragedy by getting these fundamental issues competently litigated in a federal courtroom.

Important Note on the Nomenclature of Ethnicity in Student Academic Performance

Throughout this report, we use the nomenclature of the past decades, with such phrases as "at-risk minority students" and "children of color." Because the Texas Education Agency uses "White" to describe Anglo students, this work does as well.

However, it is important to note what has happened in Texas public education enrollment between the academic year immediately before the year that field testing of the Texas Assessment of Academic Skills (TAAS) began, thus ushering in dramatic change that has lasted three decades.

"Children of color" are no longer included in the classification of at-risk, "minority" students. Now they *are* the substantial majority of all students enrolled in Texas public education. At the beginning of state standardized testing in Texas, African-American and Latino students were roughly 47% of Texas students, while White students were some 52%. Now, African-American and Latino students are roughly 66% of the Texas student population.

Dating back to 1971, economically-disadvantaged students, statistically dominated by children of color, were highlighted for support in U.S. Federal Civil Order 5281. It was hoped that this would ensure achievement gap closure through the Texas Legislature's 1993 Senate Bill 7, and the legal and moral commitment of that legislation was affirmed by court decisions in the Supreme Court of Texas in 1995 and in the Federal District Court in San Antonio in 2000.

Rest assured, the author of *The Lies of Texas* is vastly more focused on providing data that will help address the failure of the State of Texas for some 30 years to meet the needs of *all* children with a special and particular focus on at-risk students who are now the *majority* of students in Texas for whom gaps have not credibly closed, despite a tsunami of testing.

Introduction

In terms of the Texas Education Agency's testing and accountability system, which *self-defines* its burden to compensate minority group children for past racial isolation and discrimination in the nomenclature of the 1970s and long-ago federal Civil Order 5281, two empirical, irrefutable realities are already in the books of the State's systemic 30-years of continuous academic fraud expertly concocted to hide in plain sight its pervasive academic corruption and deliberate deception.

1. With the 1990 accountability test, the Texas Assessment of Academic Skills (TAAS), the TEA created, implemented and imposed a bald-face, academic lie that its standard of asserted grade level and genuine equity had academic credibility. Thus, the State's assertion of constitutional honesty did not have even a smidgen of academic, moral, or even ethical standards of *de minimis* integrity.
2. Subsequent transitions to different testing eras, including the Texas Assessment of Knowledge & Skills (TAKS) and the current State of Texas Assessment of Academic Readiness (STAAR), concocted new ways to tell new institutional lies in a way that tragically has savaged the academic lives of at-risk students in particular.

This treatise advocates for genuine compensation for at-risk children—and *all* children—for the academic dishonesty, deliberate deception, and calculated strategies that Texas has imposed that have harmed so many children far beyond the era of segregation.

Over four centuries ago, Shakespeare coined the phrase in the *Tempest*, "The past is prologue." There exist no truer words to describe the current Texas public education accountability testing system, which began in 1990.

From the launch of student accountability testing, with the Texas Assessment of Academic Skills in 1990, through the subsequent transitions to the Texas Assessment of Knowledge & Skills (TAKS) and now State of Texas Assessments of Academic Readiness (STAAR), there has been a continuous, unbroken chain of relentless, purposeful academic deception.

The launch of accountability testing had a noble purpose: to close the academic achievement gap between White students and economically-disadvantaged students, statistically dominated by children of color, unabated from segregation through the Civil War and extending deep into the 20th century.

During the past three decades, a common denominator unites all three testing eras: The Texas Education Agency has deliberately 'dumbed

down' and eviscerated the concept of genuine grade level, as measured by criterion tests that serve the State's interests.

In the TAAS era, the TEA launched accountability with academic assessments—particularly at the higher grade levels—that was so *de minimis* and so evidently below the semblance of criterion grade level, that, if the effort had been implemented in the private sector, one might reasonably conclude that the program constituted massive consumer fraud.

Government had no such worry. What worried Texas government and the implementation of this continuing scam was the legal horizon regarding decisions that would come to the Supreme Court of Texas in 1995 and the Western District Federal Court in San Antonio in 2000.

With the Texas Legislature's 1993 adoption of Senate Bill 7—the statutory "parent" of the constitution-based accountability movement—the TEA's primary mission was to reduce high legal hurdles during the TAAS era "by cooking the books," to pretend that it was closing the achievement gaps for disadvantaged students dominated by children of color.

The program worked brilliantly. Per the conclusions of TAAS assessments, the ravages of segregation and separate-but-equal school systems began to drop by the 1995 decision of Texas' top court, and they dramatically dropped by the time of the 2000 federal court decision.

By the end of the TAAS era in academic year 2001-2002, the achievement gaps had essentially evaporated. The so-called "Texas Educational Miracle" powered two transformational court victories and helped elect in a substantial way a President of the United States who oversaw, defended, and protected the system as Governor of Texas.

However, the dramatic success in closing those academic achievement gaps for minority and at-risk students during the TAAS era, through lower genuine grade level, produced an Olympian challenge as Texas transitioned to the TAKS, a "harder" test for the 2002-2003 academic year.

In the course of that transition, as part of the process of establishing the performance standards of the TAKS test, the TEA produced a stunning document that accomplished the following:

1. It eviscerated the credibility of the TEA's decade of defense of the grade-level academic credibility of the entire TAAS testing program.
2. To strategically reduce failure rates, it used the ethnicity and economic status of Texas' students as *the dominant criterion* for setting the passing and performance standards of TAKS,

3. Rather than meet the genuine academic needs of students, it established the practice of reducing the passing rates for achieving the State's self-imposed interpretation of constitutional equity and grade level for students, a practice that serves the State's vested legal and financial interests.

During the entire accountability testing movement in Texas, the State has created and implemented an accountability system that in every academic subject, tested at every grade level, from the start of the effort through today, grossly and deliberately created criterion tests that were far below any semblance of genuine grade-level credibility and used performance standards that asserted that significant percentages of students who "passed" the various tests were still deemed, by the State's own standards, to be "below grade level."

One can only wonder if the late Federal District Judge William Wayne Justice, who authored Civil Order 5281 in 1972 with words that commanded the TEA to compensate minority-group children for past racial isolation, would be proud of Texas' educational and civil rights attorneys' seemingly feckless inability to unravel in a court of law "The Lies of Texas" that have harmed so many children.

Presuming that the past is indeed prologue, this treatise will examine the current STAAR, then step back into the past, to unravel just how Texas arrived at this tragedy.

The Past as Prologue

The 2018-2019 academic year, the last academic year unaffected by COVID, is crucial for the most current and reliable analysis of the STAAR testing era. For this reason, we begin by asking what the 2018-2019 STAAR results in reading, math, writing, science, social studies and end-of-course testing tell us about the current reality of student performance and the Texas public educational accountability system.

Criterion tests, like the TAAS, TAKS and STAAR, determine the extent to which students have learned and comprehend what they have been taught in various subjects and grade levels. They are designed to measure student performance against a fixed set of predetermined criteria or learning standards (i.e., concise, written descriptions of what students are expected to know and be able to do at a specific stage of their education). Criterion tests are not deigned to create a bell curve, so it is possible for all students to correctly (or incorrectly) answer all questions of a criterion test.

To establish the percentage of right answers that define student performance on every test and in every subject, the TEA assesses the following:

- Students who *fail* the test;
- Students who *pass* the test and meet the State's own standard of constitutional equity, including all students who approach, meet and master grade level;
- Students who *meet* grade level; and
- Students who *master* grade level and demonstrate greater mastery than those who merely meet grade level.

The TEA establishes the number and percentage of right answers needed for a student to "approach grade level"—the State's definition of achieving constitutional equity. By the State's own acknowledgement, a student who "approaches" grade level is performing *below* grade level but is still included in the percentage of Texas students who achieve constitutional and statutory equity.

The TEA reports the percentage of students who achieve the equity standard, which includes all students who approach, meet and master grade level, so simple math easily isolates the number and percentage of students who *approach* grade level.

The following table displays all performance thresholds, and the reader does well to focus particular attention on the "approaches" range

of performance in all subject and grades, particularly on end-of-course testing, for which graduation requirements are imposed.

STAAR Content Mastery Standards 2018-2019			% Right Answers To Achieve Performan Threshold					
			BELOW GRADE LEVEL			GRADE LEVEL/ABOVE		
Grade	Subject	Questions	FAIL	APPROACH		MEETS		MASTERS
6	Reading	40	55.0%	57.5%	75.0%	77.5%	85.0%	87.5%
6	Math	38	34.2%	36.8%	57.9%	60.5%	76.3%	78.9%
7	Reading	42	52.4%	54.8%	71.4%	73.8%	81.0%	83.3%
7	Math	40	37.5%	40.0%	60.0%	62.5%	80.0%	82.5%
7	Writing	46	54.3%	56.5%	67.4%	69.6%	80.4%	82.6%
8	Reading	44	54.5%	54.5%	72.7%	75.0%	84.1%	86.4%
8	Math	42	42.9%	45.2%	61.9%	64.3%	83.3%	85.7%
8	Science	42	50.0%	52.4%	69.0%	71.4%	81.0%	83.3%
8	Soc. St.	44	47.7%	50.0%	68.2%	70.5%	77.3%	79.5%
EOC	English I	68	55.9%	57.4%	64.7%	66.2%	85.3%	86.8%
EOC	English II	68	58.8%	60.3%	67.6%	69.1%	88.2%	89.7%
EOC	Algebra I	54	37.0%	38.9%	59.3%	61.1%	74.1%	75.9%
EOC	Biology	50	36.0%	38.0%	58.0%	60.0%	80.0%	82.0%
EOC	US History	68	41.2%	42.6%	61.8%	63.2%	76.5%	77.9%

For the above table, note the following:

- **6th-grade Math:** A student need only correctly answer 60.5% of questions to *meet* grade level, and only 36.8% of questions to "approach" grade level and achieve "equity."
- **7th-grade Math:** A student need only correctly answer 62.5% of questions to *meet* grade level, and only 40.0% of questions to "approach" grade level and achieve "equity."
- **8th-grade Math:** A student need only correctly answer 64.3% of questions to *meet* grade level, and only 45.2% of questions to "approach" grade level and achieve "equity." Recall that accelerated students studying algebra do not take this 8th-grade math test.
- **6th to 8th-grade Reading:** Standards for "approaching" grade level range from 54.5% to 57.5%.
- **End-of-course English I**: A student need only correctly answer 66.2% of questions to graduate, and only 57.4% of questions to "approach" grade level and achieve "equity."
- **End-of-course English II**: A student need only correctly answer 69.1% of questions to graduate, and only 60.3% of questions to "approach" grade level and achieve "equity."

Now, look at what happens in the testing standards of Algebra, Biology, and U.S. History:

- **EOC Algebra I:** A student need only correctly answer 61.1% of questions to graduate, and only 38.9% of questions to "approach" grade level and achieve "equity."
- **EOC Biology:** A student need only correctly answer 60% of questions to graduate, and only 38.0% of questions to "approach" grade level and achieve "equity."
- **EOC U.S. History:** A student need only correctly answer 63.2% of questions to graduate, and only 42.6% of questions to "approach" grade level and achieve "equity."

The following tables draw from the above standards to document statewide STAAR test results for 5th grade through end-of-course testing for the primary spring STAAR administration for 2018-2019. The red column reports the total percentage of students who performed *below* grade level on each test, with the corresponding percentages in green that were said to have achieved "equity."

Let's read the first row of this table together, to understand its contents:

- 394,750 students in the fifth grade took the grade-level reading test.
- 23% *failed* the test.
- Because 23% failed the test, 77% *passed* it and met the state's definition of achieving "equity."
- 49% of students tested below grade level, resulting in a gap of 32% of students who "passed" the test but were not at grade level.

STAAR STATEWIDE SUMMARY - 2018-19							BELOW GR. LEVEL	EQUITY
Group	Subject	Grade	Numb. Tested	% Of Tested	% Total Fail	% Just At APP or PASS	Total % Below Gr. Lev.	Total At Equity Stnd.
State	**Reading**	**5**	**394,750**	**100%**	**23**	**26**	**49**	**77**
Hispanic/Latino	Reading	5	202,216	51%	27	29	56	73
Asian	Reading	5	18,620	9%	9	12	21	91
Black/AF.A.	Reading	5	51,117	13%	34	28	62	66
White	Reading	5	110,259	28%	14	21	35	86
Two or More Races	Reading	5	10,485	3%	17	24	41	83
Econ. Disadv	Reading	5	239,021	61%	30	30	60	70
Not Econ. Disadv.	Reading	5	155,432	39%	11	21	32	89
At-Risk	Reading	5	200,625	51%	39	34	73	61
Not At-Risk	Reading	5	193,878	49%	6	18	24	94
State	**Reading**	**6**	**410,026**	**100%**	**34**	**31**	**65**	**66**
Hispanic/Latino	Reading	6	217,394	53%	40	32	72	60
Asian	Reading	6	17,858	8%	12	21	33	88
Black/AF.A.	Reading	6	51,653	13%	43	31	74	57
White	Reading	6	110,840	27%	22	29	51	78
Two or More Races	Reading	6	10,044	2%	24	30	54	76
Econ. Disadv	Reading	6	250,174	61%	43	32	75	57
Not Econ. Disadv.	Reading	6	159,428	39%	19	29	48	81
At-Risk	Reading	6	199,800	49%	56	31	87	44
Not At-Risk	Reading	6	209,873	51%	13	30	43	87
State	**Reading**	**7**	**399,427**	**100%**	**26**	**27**	**53**	**74**
Hispanic/Latino	Reading	7	210,923	53%	31	29	60	69
Asian	Reading	7	17,668	8%	8	14	22	92
Black/AF.A.	Reading	7	50,280	13%	35	30	65	65
White	Reading	7	109,032	27%	16	23	39	84
Two or More Races	Reading	7	9,390	2%	19	24	43	81
Econ. Disadv	Reading	7	239,885	60%	34	30	64	66
Not Econ. Disadv.	Reading	7	159,248	40%	14	22	36	86
At-Risk	Reading	7	201,692	50%	45	33	78	55
Not At-Risk	Reading	7	197,462	49%	7	20	27	93
State	**Reading**	**8**	**392,556**	**100%**	**23**	**24**	**47**	**77**
Hispanic/Latino	Reading	8	206,338	53%	27	28	55	73
Asian	Reading	8	17,597	9%	8	10	18	92
Black/AF.A.	Reading	8	48,847	12%	33	28	61	67
White	Reading	8	108,641	28%	13	20	33	87
Two or More Races	Reading	8	9,092	2%	15	21	36	85
Econ. Disadv	Reading	8	229,651	59%	31	28	59	69
Not Econ. Disadv.	Reading	8	162,482	41%	12	19	31	88
At-Risk	Reading	8	200,889	51%	40	34	74	60
Not At-Risk	Reading	8	191,308	49%	5	15	20	95

STAAR STATEWIDE SUMMARY - 2018-19							BELOW GR. LEVEL	EQUITY
Group	Subject	Grade	Numb. Tested	% Of Tested	% Total Fail	% Just At APP or PASS	Total % Below Gr. Lev.	Total At Equity Stnd.
State	**Math**	**5**	**404,089**	**100%**	**17**	**27**	**44**	**83**
Hispanic/Latino	Math	5	212,043	52%	18	30	48	82
Asian	Math	5	18,334	9%	4	10	14	96
Black/AF.A.	Math	5	51,076	13%	29	32	61	71
White	Math	5	110,103	27%	11	23	34	89
Two or More Races	Math	5	10,458	3%	15	25	40	85
Econ. Disadv	Math	5	248,514	61%	22	31	53	78
Not Econ. Disadv.	Math	5	155,272	38%	9	20	29	91
At-Risk	Math	5	210,447	52%	28	35	63	72
Not At-Risk	Math	5	193,387	48%	5	18	23	95
State	**Math**	**6**	**401,216**	**100%**	**21**	**34**	**55**	**79**
Hispanic/Latino	Math	6	213,838	53%	24	38	62	76
Asian	Math	6	16,025	7%	4	13	17	96
Black/AF.A.	Math	6	51,269	13%	31	38	69	69
White	Math	6	108,087	27%	12	29	41	88
Two or More Races	Math	6	9,792	2%	15	31	46	85
Econ. Disadv	Math	6	247,123	62%	27	39	66	73
Not Econ. Disadv.	Math	6	153,672	38%	10	28	38	90
At-Risk	Math	6	198,609	50%	34	43	77	66
Not At-Risk	Math	6	202,257	50%	7	27	34	93
State	**Math**	**7**	**352,970**	**100%**	**27**	**32**	**59**	**73**
Hispanic/Latino	Math	7	191,668	54%	30	35	65	70
Asian	Math	7	13,328	7%	7	14	21	93
Black/AF.A.	Math	7	46,312	13%	40	34	74	60
White	Math	7	91,802	26%	17	29	46	83
Two or More Races	Math	7	7,961	2%	21	31	52	79
Econ. Disadv	Math	7	221,377	63%	34	35	69	66
Not Econ. Disadv.	Math	7	131,300	37%	15	28	43	85
At-Risk	Math	7	192,299	54%	42	38	80	58
Not At-Risk	Math	7	160,399	45%	8	27	35	92
State	**Math**	**8**	**337,761**	**100%**	**19**	**26**	**45**	**81**
Hispanic/Latino	Math	8	179,360	53%	21	29	50	79
Asian	Math	8	12,497	7%	4	10	14	96
Black/AF.A.	Math	8	45,096	13%	28	31	59	72
White	Math	8	91,208	27%	12	21	33	88
Two or More Races	Math	8	7,803	2%	14	24	38	86
Econ. Disadv	Math	8	204,824	61%	24	30	54	76
Not Econ. Disadv.	Math	8	132,540	39%	11	20	31	89
At-Risk	Math	8	190,073	56%	29	35	64	71
Not At-Risk	Math	8	147,356	44%	5	16	21	95

STAAR STATEWIDE SUMMARY - 2018-19							BELOW GR. LEVEL	EQUITY
Group	Subject	Grade	Numb. Tested	% Of Tested	% Total Fail	% Just At APP or PASS	Total % Below Gr. Lev.	Total At Equity Stnd.
State	**Writing**	**7**	**399,570**	**100%**	**31**	**29**	**60**	**69**
Hispanic/Latino	Writing	7	210,971	53%	37	30	67	63
Asian	Writing	7	17,644	8%	10	15	25	90
Black/AF.A.	Writing	7	50,354	13%	41	30	71	59
White	Writing	7	109,136	27%	20	27	47	80
Two or More Races	Writing	7	9,393	2%	23	27	50	77
Econ. Disadv	Writing	7	240,276	60%	40	31	71	60
Not Econ. Disadv.	Writing	7	159,087	40%	18	25	43	82
At-Risk	Writing	7	202,101	51%	53	31	84	47
Not At-Risk	Writing	7	197,279	49%	10	25	35	90
State	**Science**	**8**	**393,904**	**100%**	**21**	**30**	**51**	**79**
Hispanic/Latino	Science	8	207,301	53%	25	34	59	75
Asian	Science	8	17,468	8%	5	14	19	95
Black/AF.A.	Science	8	49,295	13%	31	36	67	69
White	Science	8	108,688	28%	11	23	34	89
Two or More Races	Science	8	9,083	2%	13	27	40	87
Econ. Disadv	Science	8	231,847	59%	28	35	63	72
Not Econ. Disadv.	Science	8	161,611	41%	10	24	34	90
At-Risk	Science	8	200,914	51%	36	40	76	64
Not At-Risk	Science	8	192,606	49%	5	20	25	95
State	**Soc. St.**	**8**	**395,567**	**100%**	**33**	**32**	**65**	**67**
Hispanic/Latino	Soc. St.	8	208,474	53%	39	33	72	61
Asian	Soc. St.	8	17,711	8%	9	20	29	91
Black/AF.A.	Soc. St.	8	49,210	12%	44	32	76	56
White	Soc. St.	8	109,015	28%	21	31	52	79
Two or More Races	Soc. St.	8	9,085	2%	24	31	55	76
Econ. Disadv	Soc. St.	8	232,509	59%	43	33	76	57
Not Econ. Disadv.	Soc. St.	8	162,618	41%	19	30	49	81
At-Risk	Soc. St.	8	200,815	51%	54	32	86	46
Not At-Risk	Soc. St.	8	194,371	49%	11	32	43	89
State	**EOC**	**Eng. I**	**467,850**	**100%**	**37**	**14**	**51**	**63**
Hispanic/Latino	EOC	Eng. I	259,230	55%	42	16	58	58
Asian	EOC	Eng. I	18,152	7%	14	6	20	86
Black/AF.A.	EOC	Eng. I	64,789	14%	48	16	64	52
White	EOC	Eng. I	113,714	24%	22	11	33	78
Two or More Races	EOC	Eng. I	9,308	2%	24	13	37	76
Econ. Disadv	EOC	Eng. I	288,999	62%	46	16	62	54
Not Econ. Disadv.	EOC	Eng. I	178,423	38%	21	11	32	79
At-Risk	EOC	Eng. I	280,231	60%	55	19	74	45
Not At-Risk	EOC	Eng. I	187,227	40%	8	8	16	92
Retester	EOC	Eng. I	94,197	20%	78	16	94	22
Not Retester	EOC	Eng. I	373,653	80%	26	14	40	74

STAAR STATEWIDE SUMMARY - 2018-19					BELOW GR. LEVEL		EQUITY	
Group	Subject	Grade	Numb. Tested	% Of Tested	% Total Fail	% Just At APP or PASS	Total % Below Gr. Lev.	Total At Equity Stnd.
State	**EOC**	**Eng. II**	**445,466**	**100%**	**33**	**16**	**49**	**67**
Hispanic/Latino	EOC	Eng. II	240,119	54%	39	18	57	61
Asian	EOC	Eng. II	18,919	8%	16	7	23	84
Black/AF.A.	EOC	Eng. II	59,532	13%	42	19	61	58
White	EOC	Eng. II	115,511	26%	19	13	32	81
Two or More Races	EOC	Eng. II	8,783	2%	21	13	34	79
Econ. Disadv	EOC	Eng. II	258,697	58%	42	19	61	58
Not Econ. Disadv.	EOC	Eng. II	186,387	42%	19	14	33	81
At-Risk	EOC	Eng. II	246,362	55%	53	21	74	47
Not At-Risk	EOC	Eng. II	198,761	45%	7	10	17	93
Retester	EOC	Eng. II	74,191	17%	77	17	94	23
Not Retester	EOC	Eng. II	371,275	83%	24	16	40	76
State	**EOC**	**Alg. I**	**416,354**	**100%**	**16**	**22**	**38**	**84**
Hispanic/Latino	EOC	Alg. I	220,973	53%	17	24	41	83
Asian	EOC	Alg. I	18,060	8%	3	7	10	97
Black/AF.A.	EOC	Alg. I	54,765	13%	24	29	53	76
White	EOC	Alg. I	110,843	27%	12	19	31	88
Two or More Races	EOC	Alg. I	9,166	2%	14	20	34	86
Econ. Disadv	EOC	Alg. I	244,931	59%	20	26	46	80
Not Econ. Disadv.	EOC	Alg. I	170,989	41%	10	18	28	90
At-Risk	EOC	Alg. I	220,659	53%	27	30	57	73
Not At-Risk	EOC	Alg. I	195,323	47%	4	13	17	96
Retester	EOC	Alg. I	28,321	7%	70	25	95	30
Not Retester	EOC	Alg. I	388,033	93%	12	22	34	88
State	**EOC**	**Bio**	**409,371**	**100%**	**12**	**25**	**37**	**88**
Hispanic/Latino	EOC	Bio	215,408	53%	15	29	44	85
Asian	EOC	Bio	18,464	9%	4	8	12	96
Black/AF.A.	EOC	Bio	52,411	13%	18	31	49	82
White	EOC	Bio	111,733	27%	5	17	22	95
Two or More Races	EOC	Bio	8,909	2%	7	18	25	93
Econ. Disadv	EOC	Bio	235,022	57%	17	30	47	83
Not Econ. Disadv.	EOC	Bio	174,009	43%	6	16	22	94
At-Risk	EOC	Bio	212,023	52%	22	37	59	78
Not At-Risk	EOC	Bio	197,045	48%	2	10	12	98
Retester	EOC	Bio	21,943	5%	64	33	97	36
Not Retester	EOC	Bio	387,428	95%	9	24	33	91
State	**EOC**	**US Hist**	**360,061**	**100%**	**7**	**18**	**25**	**93**
Hispanic/Latino	EOC	US Hist	185,239	51%	8	22	30	92
Asian	EOC	US Hist	16,608	9%	4	7	11	96
Black/AF.A.	EOC	US Hist	45,596	13%	11	24	35	89
White	EOC	US Hist	103,156	29%	3	11	14	97
Two or More Races	EOC	US Hist	7,193	2%	4	12	16	96
Econ. Disadv	EOC	US Hist	193,312	54%	10	24	34	90
Not Econ. Disadv.	EOC	US Hist	166,419	46%	4	11	15	96
At-Risk	EOC	US Hist	170,639	47%	14	30	44	86
Not At-Risk	EOC	US Hist	189,113	53%	1	7	8	99
Retester	EOC	US Hist	8,672	2%	54	40	94	46
Not Retester	EOC	US Hist	351,389	98%	6	17	23	94

Now, let's look at a series of college performance indicators by Texas high school graduates. These bottom-line numbers for statewide performance represent the most current information available as provided by the TEA or the Texas Higher Education Coordinating Board (THECB). Each of the following reports provides extraordinary context for the mistaken notion that the State's assertion of statutory or constitutional equity might be correlated with postsecondary success.

We will examine the following three reports for students prior to the COVID-19 pandemic:

- **College Performance by 2010 Texas High School Graduates**. This report tracks graduates of Texas high schools who enrolled in Texas community colleges or universities in the fall after their spring graduation, to track the number that did or did not earn an associate or baccalaureate degree within six years. Results are tracked by ethnicity and college entrance tests (viz., SAT, ACT or no entrance test).
- **Six-year College Graduation Rates for the Four Consecutive High School Graduation Classes of 2008 through 2011**. This report tracks student status as economically or non-economically disadvantaged and includes data from a national clearinghouse in addition to Texas' internal data.
- **First-year College Performance for 2019 Texas High School Graduates in Texas Colleges or Universities**. This report tracks the first semester of college success, as indicated by grade point average (GPA).

In response to a formal Public Information Request, the THECB provided detailed six-year graduation data for Texas high school graduates in 2010. The data included FERPA-compliant student-by-student information that showed each student's ethnicity, college entrance scores, initial enrollment in community college or university, and whether each student earned a two-year degree or a four-year degree or both. 148,919 Texas high school graduates in 2010 (53.1%) enrolled in Texas higher education:

- 18,475 graduates earned an associate degree.
- 53,094 earned a baccalaureate degree.
- 5,162 earned both degrees.
- Thus, 44.6% of the 148,919 graduates enrolled in higher education earned any degree.

- 49.3% of the high school graduates from that cohort who entered higher education did so without a recorded college entrance score on the SAT or ACT. Of those 73,390 students, 70.9% did *not* earn any degree.
- The vast majority of students entering higher education with an SAT score below 900 or an ACT score below 22 did *not* earn any degree within the six years.

Before reading the following set of tables, let's review the following data on the ethnicity of graduates.

Hispanic/Latino

- 57,326 Hispanic graduates (48%) enrolled in higher education.
- 36.7% of those enrolling in postsecondary studies earned a degree: 8,320 earned an associate degree; 14,788 earned a baccalaureate degree; 2,092 earned both.
- 31,662 of 57,326 Hispanics (55.2%) did not have a college entrance score. Of those, 75.6% did not earn a college degree.
- The general results for students with SAT scores below 900 or ACT scores below 22 were closely similar to statewide results.

African-American/Black

- 18,585 African-American graduates (50.2%) enrolled in higher.
- 31.3% of those enrolling in postsecondary studies earned a degree: 1,484 earned an associate degree, 4,700 earned a baccalaureate degree, 360 earned both.
- 8,262 of 18,585 African-Americans (44.5%) did not have a college entrance score. Of those, 82.4% did not earn a college degree.
- The performance of graduates with SAT scores below 900 or ACT scores below 22 mirrored statewide results.

White

- 62,581 White students (57.6%) enrolled in higher education.
- 53.3% of those enrolling in postsecondary studies earned a degree: 7,512 earned an associate degree; 28,192 earned a baccalaureate degree; 2,357 earned both.
- 29,919 of 62,581 Whites (47.8 did not have a college entrance score. Of those, 63.9% did not earn a college degree.
- The same general results for students with SAT scores below 900 or ACT scores below 22 were closely similar to statewide results.

Asian

- 7,630 Asian students (76.6%) enrolled in higher education.
- 65.5% of those enrolling in postsecondary studies earned a degree: 865 earned an associate degree; 4,410 earned a baccalaureate degree; 275 earned both.
- 2,185 of 7,630 Asians (24.2%) did not have a college entrance score. Of those, 57.0% did not earn a college degree.
- The same general results for students with SAT scores below 900 or ACT scores below 22 were closely similar to statewide results.

Now, let's take a more detailed look at these performance measures.

2009-10 Texas High School Graduates 6-Year College Graduation Performance
Students Who Enrolled In Texas In Fall After HS Graduation

DEMOGRAPHIC PROFILES - GRADUATION/HI-ED						COMBINED COMMUNITY & UNIVERSITY BY RANGE									
HS Grad Class	SAT/ACT Score Range	Ethn.	Total HS Grads	Total Grads In Hi-Ed	% Grads In Hi-Ed	Total Students In Range	% Of HS Grads	% Of Hi Ed Enroll	Total Earn Assoc	Total Earn Bacc.	Total Earn Both	Total Any Degree	Total No Degree	Total % Any Degree	Total % NO Degree
2009-10	**None**	Latino	119,365	57,326	48.0%	31,662	26.5%	55.2%	5,585	3,429	1,277	7,737	23,925	24.4%	75.6%
2009-10	**400/690**	Latino	119,365	57,326	48.0%	677	0.6%	1.2%	92	110	24	178	499	26.3%	73.7%
2009-10	**700/790**	Latino	119,365	57,326	48.0%	2,027	1.7%	3.5%	305	533	86	752	1,275	37.1%	62.9%
2009-10	**800/890**	Latino	119,365	57,326	48.0%	3,994	3.3%	7.0%	572	1,445	182	1,835	2,159	45.9%	54.1%
2009-10	**900/990**	Latino	119,365	57,326	48.0%	4,794	4.0%	8.4%	559	2,242	178	2,623	2,171	54.7%	45.3%
2009-10	**1000/1090**	Latino	119,365	57,326	48.0%	3,878	3.2%	6.8%	312	2,167	109	2,370	1,508	61.1%	38.9%
2009-10	**1100/1190**	Latino	119,365	57,326	48.0%	2,377	2.0%	4.1%	155	1,500	53	1,602	775	67.4%	32.6%
2009-10	**1200/1290**	Latino	119,365	57,326	48.0%	1,211	1.0%	2.1%	51	818	14	855	356	70.6%	29.4%
2009-10	**1300/1390**	Latino	119,365	57,326	48.0%	414	0.3%	0.7%	4	310	1	313	101	75.6%	24.4%
2009-10	**1400/1600**	Latino	119,365	57,326	48.0%	127	0.1%	0.2%	5	98	-	103	24	81.1%	18.9%
2009-10	**<12to17**	Latino	119,365	57,326	48.0%	2,495	2.1%	4.4%	339	535	83	791	1,704	31.7%	68.3%
2009-10	**18 to 22**	Latino	119,365	57,326	48.0%	2,774	2.3%	4.8%	289	1,080	72	1,297	1,477	46.8%	53.2%
2009-10	**23 to 29**	Latino	119,365	57,326	48.0%	855	0.7%	1.5%	50	492	13	529	326	61.9%	38.1%
2009-10	**30 to 36**	Latino	119,365	57,326	48.0%	41	0.0%	0.1%	2	29	-	31	10	75.6%	24.4%
2009-10	**TOTALS**	Latino	**119,365**	**57,326**	**48.0%**	**57,326**	**48.0%**	**100%**	**8,320**	**14,788**	**2,092**	**21,016**	**36,310**	**36.7%**	**63.3%**
2009-10	**None**	Black	36,988	18,585	50.2%	8,262	22.3%	44.5%	834	815	198	1,451	6,811	17.6%	82.4%
2009-10	**400/690**	Black	36,988	18,585	50.2%	632	1.7%	3.4%	38	98	3	133	499	21.0%	79.0%
2009-10	**700/790**	Black	36,988	18,585	50.2%	1,476	4.0%	7.9%	91	347	28	410	1,066	27.8%	72.2%
2009-10	**800/890**	Black	36,988	18,585	50.2%	2,381	6.4%	12.8%	156	799	22	933	1,448	39.2%	60.8%
2009-10	**900/990**	Black	36,988	18,585	50.2%	2,030	5.5%	10.9%	142	888	33	997	1,033	49.1%	50.9%
2009-10	**1000/1090**	Black	36,988	18,585	50.2%	1,236	3.3%	6.7%	60	681	30	711	525	57.5%	42.5%
2009-10	**1100/1190**	Black	36,988	18,585	50.2%	617	1.7%	3.3%	30	369	9	390	227	63.2%	36.8%
2009-10	**1200/1290**	Black	36,988	18,585	50.2%	214	0.6%	1.2%	5	145	2	148	66	69.2%	30.8%
2009-10	**1300/1390**	Black	36,988	18,585	50.2%	76	0.2%	0.4%	3	56	-	59	17	77.6%	22.4%
2009-10	**1400/1600**	Black	36,988	18,585	50.2%	15	0.0%	0.1%	-	14	-	14	1	93.3%	6.7%
2009-10	**<12to17**	Black	36,988	18,585	50.2%	797	2.2%	4.3%	50	141	9	182	615	22.8%	77.2%
2009-10	**18 to 22**	Black	36,988	18,585	50.2%	692	1.9%	3.7%	69	265	24	310	382	44.8%	55.2%
2009-10	**23 to 29**	Black	36,988	18,585	50.2%	151	0.4%	0.8%	6	78	2	82	69	54.3%	45.7%
2009-10	**30 to 36**	Black	36,988	18,585	50.2%	6	0.0%	0.0%	-	4	-	4	2	66.7%	33.3%
2009-10	**TOTALS**	Black	**36,988**	**18,585**	**50.2%**	**18,585**	**50.2%**	**100%**	**1,484**	**4,700**	**360**	**5,824**	**12,761**	**31.3%**	**68.7%**
2009-10	**None**	White	108,577	62,581	57.6%	29,919	27.6%	47.8%	5,527	6,875	1,608	10,794	19,125	36.1%	63.9%
2009-10	**400/690**	White	108,577	62,581	57.6%	108	0.1%	0.2%	12	24	5	31	77	28.7%	71.3%
2009-10	**700/790**	White	108,577	62,581	57.6%	532	0.5%	0.9%	68	179	14	233	299	43.8%	56.2%
2009-10	**800/890**	White	108,577	62,581	57.6%	2,054	1.9%	3.3%	208	921	70	1,059	995	51.6%	48.4%
2009-10	**900/990**	White	108,577	62,581	57.6%	4,544	4.2%	7.3%	419	2,509	165	2,763	1,781	60.8%	39.2%
2009-10	**1000/1090**	White	108,577	62,581	57.6%	6,106	5.6%	9.8%	402	3,920	164	4,158	1,948	68.1%	31.9%
2009-10	**1100/1190**	White	108,577	62,581	57.6%	5,895	5.4%	9.4%	280	4,267	118	4,429	1,466	75.1%	24.9%
2009-10	**1200/1290**	White	108,577	62,581	57.6%	4,480	4.1%	7.2%	127	3,468	48	3,547	933	79.2%	20.8%
2009-10	**1300/1390**	White	108,577	62,581	57.6%	2,531	2.3%	4.0%	51	2,060	15	2,096	435	82.8%	17.2%
2009-10	**1400/1600**	White	108,577	62,581	57.6%	1,115	1.0%	1.8%	7	945	2	950	165	85.2%	14.8%
2009-10	**<12to17**	White	108,577	62,581	57.6%	411	0.4%	0.7%	45	102	15	132	279	32.1%	67.9%
2009-10	**18 to 22**	White	108,577	62,581	57.6%	2,150	2.0%	3.4%	227	1,069	82	1,214	936	56.5%	43.5%
2009-10	**23 to 29**	White	108,577	62,581	57.6%	2,375	2.2%	3.8%	131	1,560	49	1,642	733	69.1%	30.9%
2009-10	**30 to 36**	White	108,577	62,581	57.6%	361	0.3%	0.6%	8	293	2	299	62	82.8%	17.2%
2009-10	**TOTALS**	White	**108,577**	**62,581**	**57.6%**	**62,581**	**57.6%**	**100%**	**7,512**	**28,192**	**2,357**	**33,347**	**29,234**	**53.3%**	**46.7%**

2009-10 Texas High School Graduates 6-Year College Graduation Performance
Students Who Enrolled In Texas In Fall After HS Graduation

DEMOGRAPHIC PROFILES - GRADUATION/HI-ED						COMBINED COMMUNITY & UNIVERSITY BY RANGE									
HS Grad Class	SAT/ACT Score Range	Ethn.	Total HS Grads	Total Grads In Hi-Ed	% Grads In Hi-Ed	Total Students In Range	% Of HS Grads	% Of Hi Ed Enroll	Total Earn Assoc	Total Earn Bacc.	Total Earn Both	Total Any Degree	Total No Degree	Total % Any Degree	Total % NO Degree
2009-10	**None**	Asian	9,967	7,630	76.6%	2,185	21.9%	28.6%	553	545	159	939	1,246	43.0%	57.0%
2009-10	**400/690**	Asian	9,967	7,630	76.6%	19	0.2%	0.2%	8	4	1	11	8	57.9%	42.1%
2009-10	**700/790**	Asian	9,967	7,630	76.6%	114	1.1%	1.5%	27	35	9	53	61	46.5%	53.5%
2009-10	**800/890**	Asian	9,967	7,630	76.6%	367	3.7%	4.8%	52	171	16	207	160	56.4%	43.6%
2009-10	**900/990**	Asian	9,967	7,630	76.6%	706	7.1%	9.3%	95	404	30	469	237	66.4%	33.6%
2009-10	**1000/1090**	Asian	9,967	7,630	76.6%	916	9.2%	12.0%	53	619	27	645	271	70.4%	29.6%
2009-10	**1100/1190**	Asian	9,967	7,630	76.6%	967	9.7%	12.7%	32	743	14	761	206	78.7%	21.3%
2009-10	**1200/1290**	Asian	9,967	7,630	76.6%	830	8.3%	10.9%	13	669	8	674	156	81.2%	18.8%
2009-10	**1300/1390**	Asian	9,967	7,630	76.6%	654	6.6%	8.6%	5	544	1	548	106	83.8%	16.2%
2009-10	**1400/1600**	Asian	9,967	7,630	76.6%	548	5.5%	7.2%	4	469	1	472	76	86.1%	13.9%
2009-10	**<12to17**	Asian	9,967	7,630	76.6%	38	0.4%	0.5%	5	13	-	18	20	47.4%	52.6%
2009-10	**18 to 22**	Asian	9,967	7,630	76.6%	97	1.0%	1.3%	14	49	8	55	42	56.7%	43.3%
2009-10	**23 to 29**	Asian	9,967	7,630	76.6%	135	1.4%	1.8%	4	97	1	100	35	74.1%	25.9%
2009-10	**30 to 36**	Asian	9,967	7,630	76.6%	54	0.5%	0.7%	-	48	-	48	6	88.9%	11.1%
2009-10	**TOTALS**	Asian	**9,967**	**7,630**	**76.6%**	**7,630**	**76.6%**	**100%**	**865**	**4,410**	**275**	**5,000**	**2,630**	**65.5%**	**34.5%**
2009-10	**None**	State	280,520	148,919	53.1%	73,390	26.2%	49.3%	12,713	11,907	3,291	21,329	52,061	29.1%	70.9%
2009-10	**400/690**	State	280,520	148,919	53.1%	1,451	0.5%	1.0%	151	241	34	358	1,093	24.7%	75.3%
2009-10	**700/790**	State	280,520	148,919	53.1%	4,203	1.5%	2.8%	495	1,106	137	1,464	2,739	34.8%	65.2%
2009-10	**800/890**	State	280,520	148,919	53.1%	8,938	3.2%	6.0%	1,003	3,382	297	4,088	4,850	45.7%	54.3%
2009-10	**900/990**	State	280,520	148,919	53.1%	12,285	4.4%	8.2%	1,225	6,128	409	6,944	5,341	56.5%	43.5%
2009-10	**1000/1090**	State	280,520	148,919	53.1%	12,391	4.4%	8.3%	847	7,538	339	8,046	4,345	64.9%	35.1%
2009-10	**1100/1190**	State	280,520	148,919	53.1%	10,117	3.6%	6.8%	513	7,029	196	7,346	2,771	72.6%	27.4%
2009-10	**1200/1290**	State	280,520	148,919	53.1%	6,887	2.5%	4.6%	200	5,210	74	5,336	1,551	77.5%	22.5%
2009-10	**1300/1390**	State	280,520	148,919	53.1%	3,763	1.3%	2.5%	64	3,042	17	3,089	674	82.1%	17.9%
2009-10	**1400/1600**	State	280,520	148,919	53.1%	1,859	0.7%	1.2%	16	1,569	3	1,582	277	85.1%	14.9%
2009-10	**<12to17**	State	280,520	148,919	53.1%	3,775	1.3%	2.5%	441	797	108	1,130	2,645	29.9%	70.1%
2009-10	**18 to 22**	State	280,520	148,919	53.1%	5,804	2.1%	3.9%	603	2,493	187	2,909	2,895	50.1%	49.9%
2009-10	**23 to 29**	State	280,520	148,919	53.1%	3,587	1.3%	2.4%	194	2,272	68	2,398	1,189	66.9%	33.1%
2009-10	**30 to 36**	State	280,520	148,919	53.1%	456	0.2%	0.3%	10	380	2	388	81	85.1%	17.8%
2009-10	**TOTALS**	State	**280,520**	**148,919**	**53.1%**	**148,906**	**53.1%**	**100%**	**18,475**	**53,094**	**5,162**	**66,407**	**82,512**	**44.6%**	**55.4%**

These tables document that significant percentages of Texas high school graduates in 2010 entered college unprepared to succeed academically. Keep in mind that the "Texas Education Miracle" was picking up steam when these students began their elementary studies. By then, Texas had achieved two court victories in state and federal jurisdictions, and the TAAS had purportedly closed the equity gap. The State had transitioned to the TAKS testing program, so these students graduated with the "harder" TAKS test. Nonetheless, the apparent lack of preparation of these graduates for postsecondary success discredited the State's assertion of achievement gap closure and constitutional equity.

The following table was published in the TEA's TAPR Report for 2018-2019. Once again, these graduation classes represent the students of the TAAS and TAKS eras, when the State asserted high levels of academic achievement, equity and college readiness. This table reflects a higher percentage of reported enrollment by Texas high school graduates in higher education—a fact that makes their two-year and four-year graduation rates even more meaningful and dramatic.

6-Year College Graduation Rates By Economic Status Source: Texas Education Agency TAPR Report - 2018-19									
ECONOMIC STATUS	**State**	**Ever Enroll Hi-Ed**	**Ever Enroll No Cert or Degree**	**Never Found In Hi-Ed**	**Earn Level 1 Cert.**	**Earn Level 2 Cert.**	**Earn 2-Year Degree**	**Earn 4-Year Degree**	**Earn Any Degree** (This Column Added)
Class of 2011									
Economically Disadvantaged	45.2%	62.6%	42.8%	37.3%	1.5%	0.2%	6.2%	12.0%	18.2%
Non-Educationally Disadvantaged	54.8%	79.3%	38.2%	20.6%	1.4%	0.2%	6.4%	33.3%	39.7%
All Students	100.0%	71.8%	40.3%	28.2%	1.4%	0.2%	6.3%	23.6%	29.9%
Class of 2010									
Economically Disadvantaged	41.1%	64.3%	44.0%	35.6%	1.5%	0.2%	6.2%	12.5%	18.7%
Non-Educationally Disadvantaged	58.9%	79.9%	39.7%	20.0%	1.4%	0.2%	6.1%	32.7%	38.8%
All Students	100.0%	73.5%	41.5%	26.4%	1.5%	0.2%	6.1%	24.4%	30.5%
Class of 2009									
Economically Disadvantaged	37.8%	64.8%	44.5%	35.1%	1.6%	0.2%	6.1%	12.5%	18.6%
Non-Educationally Disadvantaged	62.2%	80.6%	41.0%	19.3%	1.4%	0.2%	6.0%	32.1%	38.1%
All Students	100.0%	74.6%	42.3%	25.3%	1.5%	0.2%	6.1%	24.7%	30.8%
Class of 2008									
Economically Disadvantaged	35.4%	63.1%	44.6%	36.9%	1.5%	0.2%	5.5%	11.3%	16.8%
Non-Educationally Disadvantaged	64.6%	80.5%	43.7%	19.4%	1.5%	0.2%	5.7%	29.6%	35.3%
All Students	100.0%	74.4%	44.0%	25.6%	1.5%	0.2%	5.6%	23.1%	28.7%

Now, let's take a look at another set of data provided by the THECB: the first-semester postsecondary grade point averages in two-year and four-year institutions of higher education in Texas, of graduates of Texas high schools in the spring of 2019. Though the following table does not foretell dropouts, the tables above demonstrate that students with low or no college entrance score do not graduate from college.

While different departments or degree specializations have higher GPA standards for maintaining enrollment in specific programs, it is generally true that a GPA of less than 2.0 subjects a student to be removed from enrollment, and that a GPA of 2.0 to 2.49 subjects a student to potential probation or suspension.

GPA Performance of 2018-19 Texas HS Graduates Who Enrolled In Higher Education In Texas In Fall After HS Graduation								
Category	**Total**	**% Cohort**	**<2.0**	**2.0 to 2.49**	**2.5 to 2.99**	**3.0 to 3.49**	**>3.5**	**Unk**
Four-Year Public University	**75,088**	21.8%	**10,165**	**7,096**	**11,032**	**17,970**	**27,763**	**702**
Two-Year Public Colleges	**99,203**	28.8%	**31,142**	**12,962**	**13,368**	**18,219**	**18,717**	**4,609**
Independent Colleges & Universities	**5,983**	1.7%	**% At 4 -Year Enroll By GPA Threshold**					
Not Trackable	**18,080**	5.2%	**14%**	**9%**	**15%**	**24%**	**37%**	**1%**
Not Found	**143,103**	41.5%	**% At 2 -Year Enroll By GPA Threshold**					
TOTAL Not Found	**161,183**	46.8%	**31%**	**13%**	**13%**	**18%**	**19%**	**5%**
Total High School Graduates	**344,457**	100.0%	**Less Than 2.0/Subject To Probation/Dismissal**					
Total #/% At-Risk Zone < 2.5 @ 4-Yr.	**17,261**	23.0%	**2.0 to < 2.5 Higher Risk Category For Dropout**					
Total #/% < 2.5 @ 2-Yr.	**44,104**	44.5%	**GPA Thresholds for continuing various degree plans such as business, engineering, etc. vary. Examples shown separately.**					
Total #/% At-Risk Zone < 2.5 @ Hi-Ed	**61,365**	35.2%						

Though the table speaks for itself, it might be summarized as follows:

- 46.8% of Texas graduates in 2019 did *not* enroll immediately in a Texas college or university in the fall after their high school graduation.
- 21.8% of Texas graduates in 2019 enrolled in a four-year university.
- 28.8% of Texas graduates in 2019 enrolled in a two-year university.
- 1.7% of Texas graduates in 2019 enrolled in a private Texas institution.
- 23% of Texas students who enrolled in higher education began at a higher level of academic jeopardy.
- 45.5% of students enrolled in community colleges began at a higher level of academic jeopardy. Importantly, the burden of a lack of genuine college readiness hits the community college level particularly hard.
- Combining all graduates enrolled in postsecondary studies, 35.2% of the 53.2% of Texas high school graduates who enrolled in a Texas university finished their first semester of higher education in academic jeopardy.

A genuinely independent investigation is warranted of those who profit most from predictable failure—from these high dropout rates and low graduation rates, particularly for economically-disadvantaged students,

These data raise grave questions about the integrity of Texas' commitment to closing the academic achievement gap at genuinely credible levels of grade-level and college readiness. Over the course of three decades of accountability testing, millions of Texas students have been served poorly by institutional deception engineered and supported by the Texas Education Agency and many of its corporate and political benefactors and defenders.

The bottom-line question: How did Texas reach a point whereby the State could tell students, parents and taxpayers that substandard academic performance can be called equitable and credible. More importantly, is it too late for defenders of children, inclusive of civil rights attorneys, to finally step forward and defend children in the only venue that offers potential redemption: a federal courtroom?

How did Texas get here? That's the rest of *The Lies of Texas*.

Unraveling Reality: The Beginning of "the Lies of Texas"

The TAAS testing program, which asserted constitutional equity and achievement gap closure, helped the TEA to win two court decisions, and it aided the election of a President of the United States. The transition from TAAS to TAKS, though, revealed that the TAAS was a concocted and academically-depraved hoax to serve the State's legal and financial interests.

During the development of the TAKS, the TEA produced a document that showed how Texas used the ethnicity and economic status of students to literally calibrate the passing standards and performance required to achieve equity and grade level. That document devalued the academic integrity of the entire TAAS testing era, with its assertion of equity for children. To understand the overtly racist overtones of that systemic hoax, it is first essential to acknowledge how the TAAS was "mission accomplished" in the words of the Texas governor who became President.

Let's start with the dramatic "success" of TAAS. Again, the discipline to look at numbers is the key to unraveling the State's racist transition to the TAKS testing program that set the framework for STAAR.

Though TAAS implementation started in the 1989-1990 academic year, the testing of grades became more consistent in 1993, and longitudinal results were tracked beginning in 1994.

The next three tables show the dramatic progress toward achievement gap closure over nine years, and the foundation of the State's assertion that it had created an educational "miracle" that dramatically closed achievement gaps for all children.

State of Texas Multi-Year Report: 1993-94 to 2001-02 Texas Assessment of Academic Skills: All Students Tested					
ALL TESTS	**All**	**Af.A.**	**Hisp.**	**White**	**Eco. D.**
1993-94	55.6%	33.3%	41.1%	69.4%	39.0%
2001-02	85.3%	77.2%	79.7%	92.5%	78.2%
GAIN	**29.7%**	**43.9%**	**38.6%**	**23.1%**	**39.2%**
READING	**All**	**Af.A.**	**Hisp.**	**White**	**Eco. D.**
1993-94	76.5%	60.2%	64.9%	87.2%	62.9%
2001-02	91.5%	86.7%	86.9%	96.3%	86.0%
GAIN	**15.0%**	**26.5%**	**22.0%**	**9.1%**	**23.1%**
MATH	**All**	**Af.A.**	**Hisp.**	**White**	**Eco. D.**
1993-94	60.5%	38.3%	47.1%	73.3%	45.0%
2001-02	92.7%	86.5%	90.1%	96.5%	88.9%
GAIN	**32.2%**	**48.2%**	**43.0%**	**23.2%**	**43.9%**
WRITING	**All**	**Af.A.**	**Hisp.**	**White**	**Eco. D.**
1993-94	79.0%	65.8%	69.6%	87.6%	67.7%
2001-02	88.7%	84.5%	83.7%	93.9%	82.7%
GAIN	**9.7%**	**18.7%**	**14.1%**	**6.3%**	**15.0%**

From 1994 to 2002, we see the following results:

All Tests

All: 55.6% passing increased to 85.3%
Black: 33.3% passing increased to 77.2%
Hispanic: 41.1% passing increased to 79.9%
White: 69.4% passing increased to 92.5%
EcoDis: 39.0% passing increased to 78.2%

Reading

All: 76.5% passing increased to 91.5%
Black: 60.2% passing increased to 86.7%
Hispanic: 64.9% passing increased to 86.9%
White: 87.2% passing increased to 96.3%
EcoDis: 62.9% passing increased to 86.0%

Math

All: 60.5% passing increased to 92.7%
Black: 38.3% passing increased to 86.5%
Hispanic: 47.1% passing increased to 90.1%
White: 73.3% passing increased to 96.5%
EcoDis: 45.0% passing increased to 88.9%

Across the board, for all students, equity gaps closed dramatically, particularly for Hispanic, African-American, and economically-disadvantaged students,.

We now look at the upper-level tests, for the 8th grade and 10th grade, from 1992-1993 through 2001-2002. Asian students are added to the following table. We also note that the 10th-grade exist test, required for graduation, was used to calibrate college readiness.

State of Texas: TAAS Longitudinal Progress for TAAS Era

8th Grade Reading						
Academic Year	**State**	**Af. A.**	**Hisp.**	**White**	**Asian***	**Eco. Dis.**
1992-1993*	71.8%	52.6%	56.2%	85.7%	81.2%	53.4%
1993-1994	77.2%	60.9%	64.1%	88.7%	86.3%	61.9%
1994-1995	75.5%	59.7%	62.7%	87.1%	85.9%	60.5%
1999-2000	89.6%	83.6%	84.0%	95.1%	94.8%	82.7%
2000-2001	91.9%	88.0%	87.4%	96.4%	96.2%	86.5%
2001-2002	94.3%	92.1%	91.0%	97.5%	97.8%	90.5%
8th Grade Math						
Academic Year	**State**	**Af. A.**	**Hisp.**	**White**	**Asian***	**Eco. Dis.**
1992-1993*	51.1%	26.2%	32.0%	68.0%	74.9%	30.1%
1993-1994	58.6%	34.2%	42.2%	73.8%	80.6%	39.9%
1994-1995	57.3%	32.6%	39.1%	74.0%	80.7%	37.8%
1999-2000	90.2%	81.8%	86.1%	95.2%	97.1%	84.5%
2000-2001	92.4%	85.6%	89.2%	96.7%	97.7%	87.9%
2001-2002	92.9%	86.8%	90.2%	96.6%	98.0%	88.8%
8th Grade Writing						
Academic Year	**State**	**Af. A.**	**Hisp.**	**White**	**Asian***	**Eco. Dis.**
1992-1993*	73.9%	60.7%	60.8%	85.0%	82.2%	58.9%
1993-1994	69.8%	53.2%	58.4%	80.6%	81.1%	55.0%
1994-1995	75.3%	60.8%	64.2%	85.6%	85.5%	62.2%
1999-2000	84.3%	76.4%	76.9%	91.7%	92.0%	75.4%
2000-2001	85.8%	79.5%	79.8%	92.0%	92.4%	78.2%
2001-2002	85.3%	79.6%	79.0%	91.7%	93.0%	77.8%
8th Grade Science						
Academic Year	**State**	**Af. A.**	**Hisp.**	**White**	**Asian***	**Eco. Dis.**
1994-1995	77.2%	56.2%	63.7%	90.6%	87.8%	61.9%
2001-2002	93.0%	86.9%	89.3%	97.4%	97.1%	88.3%
8th Grade Social Studies						
Academic Year	**State**	**Af. A.**	**Hisp.**	**White**	**Asian***	**Eco. Dis.**
1994-1995	65.9%	47.2%	49.1%	80.4%	81.2%	47.5%
2001-2002	83.7%	77.2%	76.3%	91.0%	93.8%	75.2%

From 1994 to 2002, we see the following results:

8th Grade: All Tests

Statewide: 46.2% passing increased to 73.4%
Black: 23.1% passing increased to 62.1%
Hispanic: 27.6% passing increased to 63.5%
White: 62.9% passing increased to 84.0%
Asian: 66.4% passing increased to 88.5%
EcoDis: 25.6% passing increased to 61.3%

8th Grade Reading

Statewide: 71.8% passing increased to 94.3%
Black: 52.6% passing increased to 92.1%
Hispanic: 56.2% passing increased to 91.0%
White: 85.7% passing increased to 97.5%
Asian: 81.2% passing increased to 97.8%
EcoDis: 53.4% passing increased to 90.5%

8th Grade Math

Statewide: 51.1% passing increased to 92.9%
Black: 26.2% passing increased to 86.8%
Hispanic: 32.0% passing increased to 90.2%
White: 68.0% passing increased to 96.6%
Asian: 74.9% passing increased to 98.0%
EcoDis: 30.1% passing increased to 88.8%

8th Grade Science

Statewide: 77.2% passing increased to 93.0%
Black: 56.2% passing increased to 86.9%
Hispanic: 63.7% passing increased to 89.3%
White: 90.6% passing increased to 97.4%
Asian: 87.8% passing increased to 97.1%
EcoDis: 61.9% passing increased to 88.3%

8th Grade Social Studies

Statewide: 65.9% passing increased to 83.7%
Black: 47.2% passing increased to 77.2%
Hispanic: 49.1% passing increased to 76.3%
White: 80.4% passing increased to 91.0%
Asian: 81.2% passing increased to 93.8%
EcoDis: 47.5% passing increased to 75.2%

State of Texas: TAAS Longitudinal Progress for TAAS Era

10th Grade Reading

Academic Year	State	Af. A.	Hisp.	White	Asian*	Eco. Dis.
1992-1993*	72.8%	56.3%	56.0%	86.0%	75.0%	52.3%
1993-1994	77.7%	62.9%	63.5%	89.1%	79.0%	60.2%
1994-1995	76.4%	60.5%	62.8%	88.2%	79.0%	59.8%
1999-2000	90.3%	85.9%	83.1%	96.1%	91.2%	82.0%
2000-2001	90.0%	84.1%	83.5%	96.0%	90.6%	82.0%
2001-2002	94.5%	92.5%	90.5%	97.9%	95.3%	90.1%

10th Grade Math

Academic Year	State	Af. A.	Hisp.	White	Asian*	Eco. Dis.
1992-1993*	57.6%	34.0%	41.4%	71.3%	76.0%	39.3%
1993-1994	58.4%	34.6%	42.6%	71.9%	76.5%	40.7%
1994-1995	60.2%	37.1%	43.5%	74.7%	81.2%	42.4%
1999-2000	86.8%	75.0%	80.8%	93.2%	94.6%	79.2%
2000-2001	89.3%	80.2%	84.1%	94.8%	95.8%	83.0%
2001-2002	92.2%	85.9%	88.0%	96.5%	97.1%	87.4%

10th Grade Writing

Academic Year	State	Af. A.	Hisp.	White	Asian*	Eco. Dis.
1992-1993*	82.3%	72.0%	71.1%	91.6%	78.7%	68.4%
1993-1994	82.5%	71.1%	72.1%	91.1%	81.4%	69.0%
1994-1995	86.3%	78.5%	77.1%	93.5%	87.8%	75.6%
1999-2000	90.7%	86.6%	84.5%	95.8%	91.5%	83.5%
2000-2001	89.1%	85.4%	83.0%	94.0%	91.9%	82.0%
2001-2002	91.3%	90.2%	85.1%	96.0%	93.2%	84.9%

10th Grade ALL TESTS

Academic Year	State	Af. A.	Hisp.	White	Asian*	Eco. Dis.
1992-1993*	52.0%	29.3%	34.5%	67.1%	63.4%	31.5%
1993-1994	53.5%	30.0%	36.3%	68.2%	66.1%	33.9%
1994-1995	55.1%	32.2%	37.7%	70.7%	69.7%	35.6%
1999-2000	80.4%	68.2%	70.4%	89.8%	86.5%	68.4%
2000-2001	80.3%	69.2%	71.0%	89.3%	86.4%	68.9%
2001-2002	85.7%	79.5%	77.7%	92.9%	91.0%	76.8%

From 1994 to 2002, we see the following results:

10th Grade: All Tests

Statewide: 52.0% passing increased to 85.7%
Black: 29.3% passing increased to 79.5%
Hispanic: 34.5% passing increased to 77.7%
White: 67.1% passing increased to 92.9%
Asian: 63.4% passing increased to 91.0%
EcoDis: 31.5% passing increased to 76.8%

10th Grade Reading

Statewide: 72.8% passing increased to 94.5%
Black: 56.3% passing increased to 92.5%
Hispanic: 56.0% passing increased to 90.5%
White: 86.0% passing increased to 97.9%
Asian: 75.0% passing increased to 95.3%
EcoDis: 52.3% passing increased to 90.1%

10th Grade Math

Statewide: 57.6% passing increased to 92.2%
Black: 34.0% passing increased to 85.9%
Hispanic: 41.4% passing increased to 88.0%
White: 71.3% passing increased to 96.5%
Asian: 76.0% passing increased to 97.1%
EcoDis: 39.3% passing increased to 87.4%

10th Grade Writing

Statewide: 82.3% passing increased to 91.3%
Black: 72.0% passing increased to 90.2%
Hispanic: 71.1% passing increased to 85.1%
White: 91.6% passing increased to 96.0%
Asian: 78.7% passing increased to 93.2%
EcoDis: 68.4% passing increased to 84.9%

It's difficult to paint a more dramatic portrayal of just how "successful" Texas was in "improving" the academic skills of all children, particularly for at-risk and economically-disadvantaged students.

Before we analyze the State's transition to the "harder" TAKS, we must naturally ask, "harder than what?"

In a request for clarifications and insight, Dallas ISD Superintendent Dr. James Hughey provided TEA Commissioner Dr. Mike Moses a copy of an internal research document and asked:

> "Given that the goal of the reading program is for all Texans to be proficient in reading by the end of the third grade, how is the Agency defining and measuring proficiency in reading? Is passing TAAS at the end of the third grade a demonstration of proficiency? Is passing TAAS at the end of the third grade viewed as being on grade level by the Agency? Is the Agency recommending, not recommending, or discouraging the use of any other instruments such as norm-referenced or criterion-referenced instruments to complement the information from TAAS?

The accompanying statistical back-up documentation provided by Dr. Hughey concluded that "passing" the 3rd-grade TAAS reading test correlated to the 22nd percentile of the norm-referenced Iowa Test of Basic Skills (ITBS), and that the 3rd-grade TAAS math test correlated to the 40th percentile of the ITBS. That report advised Dr. Moses that, for Dallas ISD students, the ITBS percentiles for passing the TAAS were as follows:

Dallas ISD Study Showing Correlation between Passing (Grade-Level) TAAS and Percentile on Iowa Test of Basic Skills

	ITSB Math Percentile	ITSB Reading Percentile
Passing score for 6th Grade TAAS	33	26
Passing score for 7th Grade TAAS	33	24
Passing score for 8th Grade TAAS	31	22
Passing score for 10th Grade Exit TAAS	23	10

In a letter to Dallas ISD Superintendent James Hughey dated November 23, 1998, TEA Commissioner Dr. Mike Moses responded:

> Texas has been recognized across the nation for our public school accountability system and the strides we have made in improving the performance of students, particularly our economically-disadvantage and minority students. At the core of our accountability system is the state's testing program. The Texas Assessment of Academic Skills (TAAS) is designed to give accurate and specific information about individual student achievement based on the state's curriculum standards, the Texas Essential Knowledge and Skills (TEKS). It is the criterion-referenced nature of the test that allows us to see whether schools are successfully teaching students the TEKS. While always subject to improvement, the TAAS test and our accountability system are the best tools we have for increasing student achievement. The agency (TEA) defines proficiency in reading as passing the reading portion of the TAAS. A student who is "on grade level" is receiving instruction in and performing satisfactorily on the curriculum specified to be taught at the particular grade. In Texas, this curriculum is the TEKS. The TAAS is a criterion-referenced test in that it measures student performance against the TEKS of the corresponding grade. Thus, the TAAS is an "on grade level" measure of student performance. The agency has taken

> no position on the use of other instruments, including norm-referenced instruments and other criterion-referenced instruments, to complement the TAAS."

Other metrics of that time period fail to show the incredible increase in grade-level performance suggested by TAAS. The following performance measures are reported in the State's then-titled Academic Excellence Indicator System (AEIS) report.

The following table shows the percentage of high school students in grades 9 to 12 who completed and earned a credit in at least one advanced-level course (e.g., dual credit, advanced placement, and International Baccalaureate courses).

Tracking Other Academic Indicators During TAAS Era *Asian/Pacific Islander Starting 1992-93							
Students Taking Advanced Courses -							
Category	Graduation Class	All	Af.A.	Hisp.	White	Other*	Eco. Dis.
% Advanced Courses	% Of 9th-12th Students1991-92						
% Advanced Courses	% Of 9th-12th Students1992-93	12.2%	7.3%	8.6%	14.9%	25.5%	7.1%
% Advanced Courses	% Of 9th-12th Students1993-94	13.2%	7.9%	9.2%	16.3%	27.9%	7.8%
% Advanced Courses	% Of 9th-12th Students2001-02	19.4%	12.5%	14.9%	23.8%	38.5%	13.1%

This table shows only slight improvements during an era of dramatic TAAS gains, casting doubts about the true academic context of even these limited gains over a decade. We also note that placing students in "advanced" classes does not indicate the level of mastery a student gained while enrolled in that class, such that no statistically-valid conclusion can be drawn for the majority of these advanced classes. In reality, a student can pass an "advanced" course but fail to achieve the national criterion performance that is outside the control of Texas or local school districts.

The following table shares AP/IB national criterion testing from 1994-1995 through the last year of TAAS in the 2001-2002 academic year. It reports by ethnicity the percent of 11th and 12th graders who took at least one AP or IB test in that academic year and scored a 3, 4 or 5 (the national criterion for college credit) on at least one AP or IB test.

To help you read these tables, let's follow All Students in 1994-1995. In the first table, we see that, for the 1994-1995 academic year, 6.8% of all Texas 11th and 12th graders took at least one AP or IB test. In the second table, we see, of that 6.8% of all students, 62.4% scored at a national criterion level on at least one test. Thus, in the last table, we see that 62.4% x 6.8% represents 4.2% of the total number of Texas 11th and 12th graders that year who scored at a national criterion level on an AP or IB test.

Tracking Other Academic Indicators During TAAS Era *Asian/Pacific Islander Starting 1992-93							
Students Taking AP or IB Classes That Have National Criterion Performance Standards							
Category	**State AEIS Report Date**	**All**	**Af.A.**	**Hisp.**	**White**	**Other***	**Eco. Dis.**
AP/IB % Tested	% of 11th -12th Students 1994-95	6.8%	1.9%	3.8%	8.7%	22.0%	NA
AP/IB % Tested	% of 11th -12th Students1995-96	7.6%	2.6%	4.4%	9.7%	23.3%	NA
AP/IB % Tested	% of 11th -12th Students1996-97	8.6%	3.3%	5.3%	10.8%	25.5%	NA
AP/IB % Tested	% of 11th -12th Students 2001-02	15.0%	6.7%	11.4%	18.0%	34.3%	NA
Students Achieving National Criterion Performance Standards On AP/IB							
Category	**State AEIS Report Date**	**All**	**Af.A.**	**Hisp.**	**White**	**Other***	**Eco. Dis.**
AP/IB Examinees/Criterion	% of 11th -12th Students 1994-95	62.4%	36.1%	55.3%	63.6%	74.4%	NA
AP/IB Examinees/Criterion	% of 11th -12th Students1995-96	62.6%	32.2%	51.9%	65.4%	74.8%	NA
AP/IB Examinees/Criterion	% of 11th -12th Students1996-97	62.0%	31.5%	52.2%	65.3%	74.5%	NA
AP/IB Examinees/Criterion	% of 11th -12th Students 2001-02	56.8%	30.6%	45.2%	62.2%	72.0%	NA
% of Scores Achieving National Criterion Performance Standards On AP/IB							
Category	**State AEIS Report Date**	**All**	**Af.A.**	**Hisp.**	**White**	**Other***	**Eco. Dis.**
AP/IB Scores/Criterion	% of 11th -12th Students 1994-95	60.0%	35.8%	48.4%	61.5%	70.4%	NA
AP/IB Scores/Criterion	% of 11th -12th Students1995-96	60.6%	31.3%	46.6%	63.4%	70.7%	NA
AP/IB Scores/Criterion	% of 11th -12th Students1996-97	59.2%	29.5%	45.5%	62.5%	69.8%	NA
AP/IB Scores/Criterion	% of 11th -12th Students 2001-02	52.9%	28.8%	36.0%	58.4%	67.1%	NA
Examinees At Criterion As % of Ethnic Cohort							
Category	**State AEIS Report Date**	**All**	**Af.A.**	**Hisp.**	**White**	**Other***	**Eco. Dis.**
Examinees/Criterion As % Cohort	% of 11th -12th Students 1994-95	4.2%	0.7%	2.1%	5.5%	16.4%	NA
Examinees/Criterion As % Cohort	% of 11th -12th Students1995-96	4.8%	0.8%	2.3%	6.3%	17.4%	NA
Examinees/Criterion As % Cohort	% of 11th -12th Students1996-97	5.3%	1.0%	2.8%	7.1%	19.0%	NA
Examinees/Criterion As % Cohort	% of 11th -12th Students 2001-02	8.5%	2.1%	5.2%	11.2%	24.7%	NA

During the same time frame in which we saw truly extraordinary growth in upper-level TAAS scores, we find only very modest gains on national AP/IB criterion testing, a metric not controlled by the State of Texas.

The following table shows the percentage of Texas students by ethnicity and economic status who performed at the higher levels on the TAAS test to the degree that the TEA asserted higher levels of college readiness. The State required Texas students to take what was in that era called the Texas Academic Skills Program (TASP) to stay enrolled in a public institutional of higher education in Texas. However, students who scored at the higher levels of TAAS in the 10th grade were exempt from taking the TASP. For other students, the TEA established a TAAS performance metric that advised parents that a student achieving that level of TAAS performance on the 10th grad exit test had a 75% probability of passing the TASP test. Clearly, performance on the 10th - grade exit test in reading and math was used as a TEA-predictor of college readiness.

Tracking Other Academic Indicators During TAAS Era *Asian/Pacific Islander Starting 1992-93							
% of Graduates Achieving TAAS Performance Standard for Higher Education Board TASP Test							
Category	**Graduation Class**	**All**	**Af.A.**	**Hisp.**	**White**	**Other***	**Eco. Dis.**
TAAS/TASP Equivalent	TASP Test Takers 1991-92 AEIS	45.9%	25.5%	31.1%	56.4%	57.0%	26.6%
TAAS/TASP Equivalent	TASP Test Takers 1992-93 AEIS	47.7%	28.3%	31.8%	58.2%	58.9%	28.6%
TAAS/TASP Equivalent	TASP Test Takers 1993-94 AEIS	53.9%	33.3%	38.0%	65.4%	63.0%	34.8%
TAAS/TASP Equivalent	TASP Test Takers 2001-02 AEIS	70.5%	54.2%	57.6%	82.0%	77.7%	54.5%

By any definition, the percent of students whom the TEA asserted had higher levels of college readiness and a very high probability of the passing the TASP test in higher education had risen significantly by TASP metrics in the TAAS era.

The TASP, a test of the Texas Higher Education Coordinating Board, had a top score of 300 and required a score of 220 score in both reading and math. Early on, the THECB reported that 69% of students who scored 220-229 in math did *not* graduate from a college or university in Texas within six years. 66% of students who scored 220-229 in reading did *not* graduate within six years. That internal report concluded that more than 60% of students who scored below 260 on the TASP in reading and math did *not* graduate from a college or university. In fact, that report concluded that 39% and 44% of students in math and reading respectively topped out in the 290-300 scoring band of the TASP but did *not* graduate from a Texas college or university within the six-year industry standard. Irrefutably, the TEA set TAAS "college ready" performance standards at a scoring threshold where internal THECB analysis showed the majority of students would not graduate from a college or university.

Now, let's examine the growth of TAAS/TASP equivalency in the context of actual SAT/ACT college entrance scores during this TAAS-based "Texas Educational Miracle."

The following tables share data by ethnicity for five categories during the TAAS era:

- the percentage of students in each graduation year who took either the SAT or ACT entrance tests;
- the percentage of those tested students who met the State's criterion of 1110 on reading and math on the SAT or a composite score of 24 on the ACT;
- the percent of students tested who achieved criterion scores as a percent of the total ethnic cohort; and
- the average SAT and ACT score by ethnicity for all students who took either test.

To understand this table, let's focus on the fifth column, Hispanic students, for the academic year 1991-1992. The first table shows that in 1991-1992, 49.2% of Hispanic students in that year's graduation class took either the SAT or ACT test. The second table shows that 5.3% of the Hispanic students who took the SAT or ACT achieved the State's criterion performance levels previously noted. The third table shows the result: If 49.2% of Hispanic graduates took the test, and 5.3% of test takers

achieved the State's criterion, then 2.6% of the Hispanic graduates had SAT or ACT criterion performance scores. The fourth and fifth tables show that the average scores for Hispanic students in reading and math were 792 for SAT and 18 for ACT.

Tracking Other Academic Indicators During TAAS Era *Asian/Pacific Islander Starting 1992-93							
% Of Graduation Classes Taking Either SAT/ACT College Entrance Tests							
Category	**Graduation Class**	**All**	**Af.A.**	**Hisp.**	**White**	**Other***	**Eco. Dis.**
% Class Tested	HS Graduation Class of 1991-92	63.6%	56.3%	49.2%	69.3%	90.9%	NA
% Class Tested	HS Graduation Class of 1992-93	64.2%	58.8%	49.5%	69.4%	89.3%	NA
% Class Tested	HS Graduation Class of 1993-94	64.8%	59.7%	49.0%	71.0%	87.6%	NA
% Class Tested	HS Graduation Class of 2001-02	61.9%	58.5%	45.2%	67.9%	81.7%	NA
% of Tested Students Who Achieved TEA's Criterion Performance On Entrance Tests							
Category	**Graduation Class**	**All**	**Af.A.**	**Hisp.**	**White**	**Other***	**Eco. Dis.**
% Tested @ Criterion	HS Graduation Class of 1991-92	16.1%	3.5%	5.3%	22.6%	36.8%	NA
% Tested @ Criterion	HS Graduation Class of 1992-93	17.2%	4.3%	5.4%	24.1%	37.0%	NA
% Tested @ Criterion	HS Graduation Class of 1993-94	17.4%	4.7%	5.4%	24.8%	36.8%	NA
% Tested @ Criterion	HS Graduation Class of 2001-02	26.6%	6.9%	10.4%	36.3%	44.9%	NA
College Entrance Tested Students As % Of Total Class By Ethnicity							
Category	**Graduation Class**	**All**	**Af.A.**	**Hisp.**	**White**	**Other***	**Eco. Dis.**
% of Total Class @ Criterion	HS Graduation Class of 1991-92	10.2%	2.0%	2.6%	15.7%	33.5%	NA
% of Total Class @ Criterion	HS Graduation Class of 1992-93	11.0%	2.5%	2.7%	16.7%	33.0%	NA
% of Total Class @ Criterion	HS Graduation Class of 1993-94	11.3%	2.8%	2.6%	17.6%	32.2%	NA
% of Total Class @ Criterion	HS Graduation Class of 2001-02	16.5%	4.0%	4.7%	24.6%	36.7%	NA
Average SAT Score For Students By Ethnicity							
Category	**Graduation Class**	**All**	**Af.A.**	**Hisp.**	**White**	**Other***	**Eco. Dis.**
Average SAT Score	HS Graduation Class of 1991-92	874	725	792	922	938	NA
Average SAT Score	HS Graduation Class of 1992-93	884	737	800	932	948	NA
Average SAT Score	HS Graduation Class of 1993-94	885	734	802	935	956	NA
Average SAT Score	HS Graduation Class of 2001-02	986	839	892	1048	1074	NA
Average ACT Score For Students By Ethnicity							
Category	**Graduation Class**	**All**	**Af.A.**	**Hisp.**	**White**	**Other***	**Eco. Dis.**
Average ACT Score	HS Graduation Class of 1991-92	19.9	17.1	18	21.1	21.3	NA
Average ACT Score	HS Graduation Class of 1992-93	20.1	17.2	18.1	21.3	21.2	NA
Average ACT Score	HS Graduation Class of 1993-94	20.1	17.2	18	21.4	21.6	NA
Average ACT Score	HS Graduation Class of 2001-02	20	17	17.8	21.5	21.8	NA

During the TAAS era, then, the above mean SAT and ACT scores, as well as the percentage of graduating students who scored at the State's criterion for college entrance tests, cast doubt on the credibility of the extraordinary gains in TAAS scores.

The following, dramatic example focuses on the 10th-grade math exit test for TAAS. Recall that the Dallas ISD advised the TEA of its internal research of students in that district, which revealed that "grade-level" or "passing" the TAAS 10th-grade exit test was equivalent to the 10th percentile in reading and the 23rd percentile in math in the Iowa Test of Basic Skills. Let's put a face on that vital statistic.

Over the TAAS testing era, there were several specific studies performed on the math component of TAAS testing in which the 10th-grade exit test was included.

Dr. Kathleen Coburn, a curriculum administrator from Temple ISD who was an attorney by training, became, in effect, the first "whistleblower" of the academic deficiencies of TAAS, with her district's early (1995) study of TAAS math. In a report funded by the federal government under the auspices of the TEA, Dr. Coburn advised the state agency that the TAAS testing program was seriously compromised according to the State's "on curriculum" standards. There is no indication that her conclusions were materially challenged during the TAAS era.

Dr. Coburn concluded that the 1995 TAAS 10th-grade math test did not contain a single question that actually involved a curriculum standard, then known as the Essential Elements. In fact, her team's analysis concluded that, of the 109 identified Essential Elements that had been included on the 10th-grade math test:

- 3.7% of questions came from the 5th-grade Essential Elements
- 32.1% of questions came from the 6th-grade Essential Elements
- 35.8% of questions came from the 7th-grade Essential Elements
- 28.4% of questions came from the 8th-grade Essential Elements
- No questions came from the 9th-grade Essential Elements
- No questions came from the 10th-grade Essential Elements

To summarize, *all* questions on the 1995 TAAS 10th-grade math test reflected the Essentia Elements of grades 5 through 8, and the State's transition in curriculum standards to the Texas Essential Knowledge and Skills (TEKS) was the State's acknowledgement of lesser academic standards during the TAAS years of state and federal litigation, foreshadowing its move to the "harder" TAKS test.

Another study was commissioned in 1999 by the non-profit, Houston-based Tax Research Association (TRA). The TRA retained Mathematically Correct (MC) of California to conduct a study of four years of TAAS math tests, from 1995 through 1998. On a question-by-question basis, its researchers evaluated every primary spring administration of the 4th-, 8th- and 10th-grade math tests and determined each question's academic rigor according to Texas' standards and according to a credible, non-Texas academic standard. This team of reviewers included Dr. David Klein of the Department of Mathematics at California State University, Northridge; Dr. Wayne Bishop of California State University, Los Angeles; and independent statistician Paul Clopton. Dr. Klein was also chosen by the Fordham Foundation to lead a national review for the Fordham Foundation, so these researchers used the grade-level math standards of that time in the State of

California, which were judged by the Fordham Foundation to be nationally and internationally credible and accurate metrics.

Their analysis concluded: "Several means of evaluating these assessment tools suggest that only low levels of achievement are being measured**. Indeed, the high school exit exam seems more appropriate to sixth-grade achievement.**"

Using a slightly different scale than Dr. Coburn, they concluded:

- 17% of questions came from Grade Levels 3.0, 3.5 and 4.0
- 32% of questions came from Grade Levels 4.5 and 5.0
- 40% of questions came from Grade Levels 5.5 and 6.0
- 12% of questions came from Grade Levels 6.5 and 7.0

In this study of TAAS math questions for grades 4, 8 and 10 from 1995 through 1998, *not a single question* on the exit test was above the seventh-grade level.

These low standards during the TAAS era were the precursors to the STAAR era standards of requiring students to correctly answer only 38% to 40% of questions for the state to claim that it achieved statutory and constitutional standards of equity. This lowering of standards was part of the "Texas Education Miracle," a concocted, manipulated scheme by the State of Texas, its political protectors, and its corporate and individual beneficiaries both professionally and financially.

One final but dramatic anecdote sets the stage of the transition from TAAS to TAKS and reveals that Texas well understood the gross academic deficiencies of the TAAS testing program in terms of student success and its assertions of grade-level and academic equity for economically-disadvantaged students.

As Texas was preparing for the transition to TAKS, it unveiled its new and "harder" curriculum standards, the TEKS, which were to be incorporated into the TAAS during the 1999-2000 testing cycle. That development prompted TEA Commissioner Jim Nelson to write to school district officials across Texas to explain the harder test, prior to the first TAAS administration of that test cycle in the fall of 1999. That communication warned districts that the tests at every grade level would be more academically rigorous. With that warning came assurances about the strategy for Texas' future.

Nelson urged school officials not to worry because the passing standards would be lowered, such that the percentage of students who would fail the various tests would not increase comparable to the failure rates of the "easier" TAAS in prior years. Here are the most critical excerpts from Nelson's October 25, 1999 letter to school officials:

> Like TEKS themselves, this test is more rigorous. However, a child who would have passed last year's test will also pass this year's test…In other words, the TAAS will be no more or less difficult for a child to pass in one year than another…Since a child who could have passed last year's test will also pass this year's, there will be no change from the perspective of a school district for purposes of accountability.

There are at least two ways for one to interpret this. The State's interpretation of a 'level playing field' elsewhere in the letter is absolutely correct *in its context*. If between 1998-1999 and 1999-2000, the TEA had changed the graduation requirements, such that two 10th graders a year apart were treated differently in the same testing era, attorneys would have had a field day. That would have been indefensible. It was absolutely essential to equate the tests of those two years. However, it was brought to the attention of the TEA that its governor was running to be elected President of the United States and that any reduction in the passing standards on the 10th-grade exit test required for graduation would put him on the defense. The end result: The "harder" TAAS exit test was administered in the fall of 1999, but Texas returned to an easier test by the second semester in February of 2000, as the Presidential race was taking shape. Texas' equivocation produced a "harder" fall test and an acknowledged "easier" test in the second semester.

During that time, there were 60 questions on the TAAS math test. Here were the passing standards that tracked what happened in this situation with the 10th grade exit test in math:

Test Cycle	**Math Passing %**	**Reading Passing %**
Fall 1998-99 *(past practice)*	68%	71%
Fall 1999-2000 (*a "harder" test)*	53%	56%
February 1999-2000 (*an "easier" test)*	65%	65%

Texas, perhaps inadvertently, revealed that it was highly aware of its coming challenge that the TAKS would present for an entire testing era when dramatically reduced passing standards when increasing the rigor of test questions.

From the very beginning, the foundation of the TAAS, the TEA's accountability testing program, was academically dishonest, and, while it produced court victories and national acclaim, it was also becoming the focus of a crescendo of independent, Texas-based and national ridicule, and the episodic, transitional dilemma between "harder" and "easier" standards in 1999-2000 occurred within the context of the "Texas

Educational Miracle" and the Texas' governor's desire to become President of the United States. The TEA's game of changing passing standards was exposed, showing that the agency could easily and smoothly retreat from fall to spring of the same academic year.

Because TAAS tests were released publicly at the end of the academic year, there was now independent access to what the TEA itself called a "harder" test and an "easier" test. In preparation for this report, a highly-skilled high school teacher of high-level mathematics was asked to evaluate the academic rigor of the fall's "harder" test in the 1999-2000 test cycle, as well as the test given in the second semester. For this focused analysis of two specific 10th-grade tests, which Texas defined as "harder" or "easier", the classroom teacher was asked to use specific standards included in the book, *The Educated Child*, by Dr. Chester Finn, former head of the Fordham Foundation, and Dr. William Bennett, a former U.S. Secretary of Education.

The two tests each had 60 questions. There were 32 questions that appeared *only* on the fall test of 1999, 32 questions that appeared *only* on the February 2000 test, and 28 questions that appeared on *both* tests.

The following table shares the teacher's conclusion that *none* of the questions on the 10th-grade math test were above the 8th-grade level.

Classroom Teacher Evaluates Grade Level Rigor of TAAS 10th Grade Math Test That Included Harder and Easier Tests In Same Academic Year

GRADE	Only Fall 1999		SAME		Febr. 2000	
	Numb.	% Fall	Numb.	%	Numb.	%
5th	6	19%	5	18%	10	31%
6th	19	59%	9	32%	6	19%
7th	3	9%	8	29%	8	25%
8th	4	13%	6	21%	8	25%
Above 8	0	0%	0	0%	0	0%
Total Quest.	32	100%	28	100%	32	100%
Avg. Level	6.1		6.5		6.4	

In addition to questions that were irrefutably below grade level, the State's decision to release every version of the test every year allowed for inflated test results, since teachers could literally "teach to the test." Questions that were field tested in one year for which the percent of correct answers was "low" became "harder" questions on actual tests in future years, but the rampant use of parallel questions from publicly-available tests paved the way to higher performance levels. The TEA recognized that the TAKS needed to be different—but it also needed to keep alive the narrative of the "Texas Education Miracle."

The following table shows the passing standards in 2002-2003, the first year of TAKS administration. Intended to be transitional standards, these changed very little during the entire TAKS era. This new testing era dramatically reduced the number of questions a student had to correctly answer to pass each test and allow the State to assert equity and closure of achievement gaps for economically-disadvantaged students.

TAKS' Initial Passing Standards Transition from TAAS

Grade Level	Subj.	??? On TAKS Test	Need To Pass	% Need To Pass TAKS
3rd	Math	40	21	53%
4th	Math	42	22	52%
5th	Math	44	24	55%
6th	Math	46	23	50%
7th	Math	48	22	46%
8th	Math	50	24	48%
9th	Math	52	25	48%
10th	Math	56	25	45%
11th	Math	60	25	42%
3rd	ELA/R	36	20	56%
4th	ELA/R	40	23	58%
5th	ELA/R	42	25	60%
6th	ELA/R	42	21	50%
7th	ELA/R	48	27	56%
8th	ELA/R	48	25	52%
9th	ELA/R	42	28	67%
10th	ELA/R	73	41	56%
11th	ELA/R	73	37	51%
5th	Science	40	24	60%
10th	Science	55	27	49%
11th	Science	55	24	44%
8th	Soc. St.	48	19	40%
10th	Soc. St.	50	23	46%
11th	Soc. St.	55	22	40%

TAKS' Initial Passing Standards Transition from TAAS

Grade Level	Subj.	??? On TAKS Test	Need To Pass	% Need To Pass TAKS
11th	Math	60	25	42%
11th	ELA/R	73	37	51%
11th	Science	55	24	44%
11th	Soc. St.	55	22	40%
10th	Math	56	25	45%
10th	ELA/R	73	41	56%
10th	Science	55	27	49%
10th	Soc. St.	50	23	46%
9th	Math	52	25	48%
9th	ELA/R	42	25	60%
8th	Math	50	24	48%
8th	ELA/R	48	25	52%
8th	Soc. St.	48	19	40%
7th	Math	48	22	46%
7th	ELA/R	48	27	56%
6th	Math	46	23	50%
6th	ELA/R	42	21	50%
5th	Math	44	24	55%
5th	ELA/R	42	25	60%
5th	Science	40	24	60%
4th	Math	42	22	52%
4th	ELA/R	40	23	58%
3rd	Math	40	21	53%
3rd	ELA/R	36	20	56%

How were these passing standards determined? Passing standards for every subject and every grade were determined through extensive field testing of TAKS questions during the final years of the TAAS testing program. Translated simply, the TAAS tests included questions from the impending TAKS era program, to allow the TEA to evaluate how students would be projected to perform on the TAKS tests when the TAKS testing program began in 2002-2003. After the hyper-inflated "success" of the TAAS testing program, field-testing allowed the TEA to determine in advance the rigor of questions and the acceptable level of failure by determining the percentage of questions that a student would have to answer correctly to pass the test or achieve higher levels of performance.

After field-testing and analysis, the TEA convened panels of educators to recommend content mastery standards for the TAKS. As part of this process, the TEA produced a genuinely-remarkable document. Cynics, independent researchers, and academicians with no political, corporate, professional, or financial interests to protect might aggressively label the foundation of the State's transition to TAKS as blatant racism and/or as a critical component to maintaining the façade of academic integrity as TAAS became TAKS. Assertions of racism may be in the eye of the beholder, but race-based decisions clearly powered the next phase of accountability testing, when "harder" tests would be paired with dramatically-reduced passing standards tied to equity achievement and grade-level attainment.

The following table demonstrate how the TAKS passing standards were calculated to minimize the number and percentage of African-American, Hispanic, and economically-disadvantaged students who would fail after the transition to the TAKS. The TEA reported the equivalents of passing or grade-level standards of the TAAS test for the new TAKS. One immediately sees in the following table the TEA's dramatic devaluation of the academic credibility of TAAS. Note, for instance, how grade-level performance on the TAAS in 10th-grade math would be equivalent to correctly answering *only 17.5%* of the questions on the new TAKS 10th-grade test.

TAAS Transition to TAKS Accountability Testing

Ethnicity/Economic Status Drives TEA Decision on Passing Standards

TEA Simultaneously Devalues Academic Integrity of Entire TAAS Improvements

ENGLISH LANGUAGE ARTS/READING					Projected Student Failures By Standards				
Grade Level	Test Ques.	Performance Standards & Value of TAAS Grade Level On New TAKS Tests	Right Answers/ Standard	% Right/ Standard	All	White	Hisp.	Af. A.	Eco. Dis.
3rd	**36**	**Panel Recommendation**	**24**	**66.7%**	**64,400**	**15,288**	**34,440**	**15,540**	**46,200**
3rd	36	1 Standard Error (SEM) Below	22	61.1%	50,400	11,760	27,552	13,020	37,800
3rd	36	2 Standard Error (SEM) Below	20	55.6%	42,000	8,232	21,812	10,500	30,800
3rd	**36**	**TAAS Grade Level Worth**	**18**	**50.0%**	**NR**	**NR**	**NR**	**NR**	**NR**
4th	**40**	**Panel Recommendation**	**27**	**67.5%**	**75,600**	**17,640**	**42,476**	**18,060**	**56,000**
4th	40	1 Standard Error (SEM) Below	25	62.5%	61,600	12,936	34,440	15,120	46,200
4th	40	2 Standard Error (SEM) Below	23	57.5%	47,600	9,408	27,552	12,600	36,400
4th	**40**	**TAAS Grade Level Worth**	**16**	**40.0%**	**NR**	**NR**	**NR**	**NR**	**NR**
5th	**42**	**Panel Recommendation**	**29**	**69.0%**	**92,400**	**22,344**	**51,600**	**19,740**	**61,600**
5th	42	1 Standard Error (SEM) Below	27	64.3%	75,600	17,640	42,746	16,380	53,200
5th	42	2 Standard Error (SEM) Below	24	57.1%	61,600	14,112	34,440	13,860	44,800
5th	**42**	**TAAS Grade Level Worth**	**21**	**50.0%**	**NR**	**NR**	**NR**	**NR**	**NR**
6th	**42**	**Panel Recommendation**	**27**	**64.3%**	**89,600**	**23,520**	**48,216**	**18,900**	**61,600**
6th	42	1 Standard Error (SEM) Below	24	57.1%	67,200	16,464	37,884	14,700	47,600
6th	42	2 Standard Error (SEM) Below	21	50.0%	47,600	10,584	27,552	10,920	35,000
6th	**42**	**TAAS Grade Level Worth**	**16**	**38.1%**	**NR**	**NR**	**NR**	**NR**	**NR**
7th	**48**	**Panel Recommendation**	**33**	**68.8%**	**100,800**	**25,872**	**55,104**	**21,420**	**70,000**
7th	48	1 Standard Error (SEM) Below	30	62.5%	78,400	19,992	44,772	17,220	56,000
7th	48	2 Standard Error (SEM) Below	27	56.3%	58,800	14,112	34,440	13,440	43,400
7th	**48**	**TAAS Grade Level Worth**	**18**	**37.5%**	**NR**	**NR**	**NR**	**NR**	**NR**
8th	**48**	**Panel Recommendation**	**34**	**70.8%**	**100,800**	**29,400**	**52,808**	**21,000**	**68,600**
8th	48	1 Standard Error (SEM) Below	31	64.6%	81,200	22,344	42,476	17,220	54,600
8th	48	2 Standard Error (SEM) Below	28	58.3%	64,400	17,640	34,440	13,860	44,800
8th	**48**	**TAAS Grade Level Worth**	**15**	**31.3%**	**NR**	**NR**	**NR**	**NR**	**NR**
9th	**42**	**Panel Recommendation**	**29**	**69.0%**	**112,000**	**34,104**	**56,252**	**20,580**	**70,000**
9th	42	1 Standard Error (SEM) Below	27	64.3%	89,600	25,872	45,920	17,220	57,400
9th	42	2 Standard Error (SEM) Below	25	59.5%	64,400	17,640	34,440	12,600	43,400
10th	**73**	**Panel Recommendation**	**47**	**64.4%**	**179,200**	**65,856**	**78,064**	**33,180**	**98,000**
10th	73	1 Standard Error (SEM) Below	44	60.3%	168,000	63,504	73,472	31,500	92,400
10th	73	2 Standard Error (SEM) Below	41	56.2%	162,400	62,328	68,880	30,240	88,200
11th	**73**	**Panel Recommendation**	**43**	**58.9%**	**176,400**	**64,680**	**80,360**	**30,660**	**99,400**
11th	73	1 Standard Error (SEM) Below	40	54.8%	168,000	62,328	74,620	28,980	93,800
11th	73	2 Standard Error (SEM) Below	37	50.7%	156,800	58,800	70,028	27,300	86,800

TAAS Transition to TAKS Accountability Testing

Ethnicity/Economic Status Drives TEA Decision on Passing Standards

TEA Simultaneously Devalues Academic Integrity of Entire TAAS Improvements

MATHEMATICS					Projected Student Failures By Standards				
Grade Level	Test Ques.	Performance Standards & Value of TAAS Grade Level On New TAKS Tests	Right Answers/ Standard	% Right/ Standard	All	White	Hisp.	Af. A.	Eco. Dis.
3rd	**40**	**Panel Recommendation**	**27**	**67.5%**	**89,600**	**22,344**	**45,920**	**21,420**	**64,400**
3rd	40	1 Standard Error (SEM) Below	24	60.0%	58,800	12,936	30,996	15,540	46,200
3rd	40	2 Standard Error (SEM) Below	21	52.5%	36,400	7,056	18,368	10,080	26,600
3rd	**40**	**TAAS Grade Level Worth**	**19**	**47.5%**	**NR**	**NR**	**NR**	**NR**	**NR**
4th	**42**	**Panel Recommendation**	**28**	**66.7%**	**95,200**	**24,696**	**49,364**	**21,840**	**64,400**
4th	42	1 Standard Error (SEM) Below	25	59.5%	64,400	15,288	34,440	16,300	46,200
4th	42	2 Standard Error (SEM) Below	22	52.4%	39,200	8,232	21,812	10,508	29,460
4th	**42**	**TAAS Grade Level Worth**	**16**	**38.1%**	**NR**	**NR**	**NR**	**NR**	**NR**
5th	**44**	**Panel Recommendation**	**30**	**68.2%**	**117,600**	**34,104**	**57,400**	**25,200**	**74,200**
5th	44	1 Standard Error (SEM) Below	27	61.4%	78,400	19,992	40,180	18,480	51,800
5th	44	2 Standard Error (SEM) Below	24	54.5%	47,600	11,760	25,256	12,600	33,600
5th	**44**	**TAAS Grade Level Worth**	**13**	**29.5%**	**NR**	**NR**	**NR**	**NR**	**NR**
6th	**46**	**Panel Recommendation**	**29**	**63.0%**	**134,400**	**41,160**	**67,732**	**27,720**	**86,800**
6th	46	1 Standard Error (SEM) Below	26	56.5%	103,600	29,400	53,956	22,680	70,000
6th	46	2 Standard Error (SEM) Below	23	50.0%	75,600	18,816	40,180	17,220	51,800
6th	**46**	**TAAS Grade Level Worth**	**11**	**23.9%**	**NR**	**NR**	**NR**	**NR**	**NR**
7th	**48**	**Panel Recommendation**	**28**	**58.3%**	**162,400**	**51,744**	**80,360**	**31,920**	**100,800**
7th	48	1 Standard Error (SEM) Below	25	52.1%	131,600	38,808	66,584	27,300	85,400
7th	48	2 Standard Error (SEM) Below	22	45.8%	95,200	25,872	50,512	21,840	64,400
7th	**48**	**TAAS Grade Level Worth**	**9**	**18.8%**	**NR**	**NR**	**NR**	**NR**	**NR**
8th	**50**	**Panel Recommendation**	**30**	**60.0%**	**165,200**	**52,920**	**81,508**	**32,760**	**100,800**
8th	50	1 Standard Error (SEM) Below	27	54.0%	134,400	39,984	68,880	28,560	86,800
8th	50	2 Standard Error (SEM) Below	24	48.0%	100,800	27,048	52,808	23,100	67,200
8th	**50**	**TAAS Grade Level Worth**	**10**	**20.0%**	**NR**	**NR**	**NR**	**NR**	**NR**
10th	**56**	**Panel Recommendation**	**33**	**58.9%**	**179,200**	**63,504**	**84,952**	**34,020**	**106,400**
10th	56	1 Standard Error (SEM) Below	29	51.8%	151,200	51,744	73,472	29,820	91,000
10th	56	2 Standard Error (SEM) Below	25	44.6%	114,800	36,456	57,400	21,940	71,400
10th	**56**	**TAAS Grade Level Worth**	**10**	**17.9%**	**NR**	**NR**	**NR**	**NR**	**NR**
9th	**52**	**Panel Recommendation**	**31**	**59.6%**	**170,800**	**54,096**	**84,952**	**32,340**	**105,000**
9th	52	1 Standard Error (SEM) Below	28	53.8%	140,000	41,160	73,324	28,140	91,000
9th	52	2 Standard Error (SEM) Below	25	48.1%	109,200	30,576	58,548	22,680	72,800
11th	**60**	**Panel Recommendation**	**33**	**55.0%**	**173,600**	**62,328**	**83,804**	**33,600**	**105,000**
11th	60	1 Standard Error (SEM) Below	29	48.3%	145,600	51,744	72,324	29,820	92,400
11th	60	2 Standard Error (SEM) Below	25	41.7%	117,600	39,984	59,696	25,200	75,600

TAAS Transition to TAKS Accountability Testing

Ethnicity/Economic Status Drives TEA Decision on Passing Standards
TEA Simultaneously Devalues Academic Integrity of Entire TAAS Improvements

WRITING					Projected Student Failures By Standards				
Grade Level	Test Ques.	Performance Standards On New TAKS Tests	Right Answers/ Standard	% Right/ Standard	All	White	Hisp.	Af. A.	Eco. Dis.
4	**32**	**Panel Recommendation**	**22**	**68.8%**	**75,600**	**24,696**	**37,884**	**15,120**	**50,400**
4	32	1 Standard Error (SEM) Below	20	62.5%	58,800	18,816	28,700	12,180	40,600
4	32	2 Standard Error (SEM) Below	18	56.3%	50,400	15,288	24,108	10,500	33,600
7	**44**	**Panel Recommendation**	**28**	**63.6%**	**81,200**	**25,872**	**41,328**	**15,960**	**54,600**
7	44	1 Standard Error (SEM) Below	26	59.1%	70,000	23,344	34,440	13,860	47,600
7	44	2 Standard Error (SEM) Below	24	54.5%	61,600	19,992	29,848	12,180	40,600
SOCIAL STUDIES					**Projected Student Failures By Standards**				
Grade Level	Test Ques.	Performance Standards On New TAKS Tests	Right Answers/ Standard	% Right/ Standard	All	White	Hisp.	Af. A.	Eco. Dis.
8	**48**	**Panel Recommendation**	**25**	**52.1%**	**72,800**	**19,992**	**41,328**	**15,120**	**53,200**
8	48	1 Standard Error (SEM) Below	22	45.8%	44,800	11,760	25,256	9,240	32,200
8	48	2 Standard Error (SEM) Below	19	39.6%	22,400	5,880	13,776	4,620	16,800
10	**50**	**Panel Recommendation**	**29**	**58.0%**	**103,600**	**31,752**	**56,252**	**22,260**	**71,400**
10	50	1 Standard Error (SEM) Below	26	52.0%	78,400	23,344	42,476	17,220	54,600
10	50	2 Standard Error (SEM) Below	21	42.0%	56,000	16,464	28,700	12,180	37,800
11	**55**	**Panel Recommendation**	**28**	**50.9%**	**67,200**	**17,640**	**37,884**	**14,700**	**49,000**
11	55	1 Standard Error (SEM) Below	25	45.5%	42,000	11,760	24,108	10,080	30,800
11	55	2 Standard Error (SEM) Below	22	40.0%	22,400	5,880	16,628	5,460	16,800
SCIENCE					**Projected Student Failures By Standards**				
Grade Level	Test Ques.	Performance Standards On New TAKS Tests	Right Answers/ Standard	% Right/ Standard	All	White	Hisp.	Af. A.	Eco. Dis.
5	**40**	**Panel Recommendation**	**30**	**75.0%**	**193,200**	**59,976**	**94,136**	**36,960**	**116,200**
5	40	1 Standard Error (SEM) Below	27	67.5%	140,000	16,456	73,472	30,660	92,400
5	40	2 Standard Error (SEM) Below	24	60.0%	89,600	19,992	49,364	21,840	64,400
10	**55**	**Panel Recommendation**	**35**	**63.6%**	**184,800**	**62,328**	**91,840**	**34,020**	**113,400**
10	55	1 Standard Error (SEM) Below	31	56.4%	142,800	43,512	75,768	28,140	93,800
10	55	2 Standard Error (SEM) Below	27	49.1%	100,800	29,400	56,252	20,580	70,000
11	**55**	**Panel Recommendation**	**30**	**54.5%**	**151,200**	**51,744**	**75,916**	**31,500**	**96,600**
11	55	1 Standard Error (SEM) Below	27	49.1%	114,800	36,456	59,696	25,620	75,600
11	55	2 Standard Error (SEM) Below	24	43.6%	75,600	23,520	39,032	18,900	50,400

It is also important to know that the TEA retroactively adjusted the performance results for the original TAKS administration in 2002-2003. It released one set of "official results" in the 2002-2003 Academic Excellence Indicator System (AEIS), and it re-reported another set of altered "official results" in the AEIS the following year, with lowered percentages of students passing the test. This re-stating of test results was

across the board, but with particular effects on math testing. The following table shows the transition between the last year of TAAS for 6th graders in 2001-2002. The left half shares the first year of TAKS for the 6th grade class in 2002-2003, plus the subsequent revision of the first year of TAKS in the TEA's 2003-2004 AEIS report, while the right half shares the first year of TAKS for the 7th grade class in 2002-2003—the same cohort of students who were in the 6th grade in 2001-2002, plus the subsequent revision of the first year of TAKS in the TEA's 2003-2004 AEIS report

	TAAS 01-02 Original AEIS 01-02 6th MATH	TAKS 02-03 Original AEIS 02-03 6TH MATH	TAKS 02-03 Restated AEIS 03-04 6TH MATH	Who Dropped The Most ?????			TAAS 01-02 Original AEIS 01-02 6th MATH	TAKS 02-03 Original AEIS 02-03 7TH MATH	TAKS 02-03 Restated AEIS 03-04 7TH MATH	Who Dropped The Most ?????	
State	93.8%	79.3%	71.0%	-14.5%	-22.8%	State	93.8%	73.4%	63.0%	-20.4%	-30.8%
Af.A.	89.0%	66.4%	55.0%	-22.6%	-34.0%	Af.A.	89.0%	59.6%	46.0%	-29.4%	-43.0%
Hispanic	91.4%	72.6%	62.0%	-18.8%	-29.4%	Hispanic	91.4%	64.4%	51.0%	-27.0%	-40.4%
White	97.2%	89.0%	83.0%	-8.2%	-14.2%	White	97.2%	84.8%	76.0%	-12.4%	-21.2%
Asian	98.2%	93.1%	89.0%	-5.1%	-9.2%	Asian	98.2%	91.0%	86.0%	-7.2%	-12.2%
Eco. Disadv.	90.4%	70.4%	59.0%	-20.0%	-31.4%	Eco. Disadv.	90.4%	62.1%	49.0%	-28.3%	-41.4%

In this table, we see that 93.8% of 6th graders passed the 6th-grade TAAS math test in 2001-2002, but only 79.3% of 6th graders passed the 6th-grade TAKS math test the following year, a drop of 14.5%. A year later, in 2004, the AEIS adjusted the 2003 test results, lowering them to 71.0%, a drop of 22.8% from 2002. Note that the most significant drops during this restatement of results occurred for African-American, Hispanic, and economically-disadvantaged students, than for White or Asian students. The drops are more significant on the right half of the table, where the passing rates of the same cohort of students decreased by over 40% for African-American, Hispanic, and economically-disadvantaged students.

The following tables can be read in the same way.

	TAAS 01-02 Original AEIS 01-02 7TH MATH	TAKS 02-03 Original AEIS 02-03 7TH MATH	TAKS 02-03 Restated AEIS 03-04 7TH MATH	Who Dropped The Most ?????			TAAS 01-02 Original AEIS 01-02 7TH MATH	TAKS 02-03 Original AEIS 02-03 8TH MATH	TAKS 02-03 Restated AEIS 03-04 8TH MATH	Who Dropped The Most ?????	
State	92.2%	73.4%	63.0%	-18.8%	-29.2%	State	92.2%	73.2%	62.0%	-19.0%	-30.2%
Af.A.	85.8%	59.6%	46.0%	-26.2%	-39.8%	Af.A.	85.8%	58.2%	45.0%	-27.6%	-40.8%
Hispanic	89.0%	64.4%	51.0%	-24.6%	-38.0%	Hispanic	89.0%	63.5%	51.0%	-25.5%	-38.0%
White	96.5%	84.8%	76.0%	-11.7%	-20.5%	White	96.5%	84.9%	76.0%	-11.6%	-20.5%
Asian	97.7%	91.0%	86.0%	-6.7%	-11.7%	Asian	97.7%	90.2%	85.0%	-7.5%	-12.7%
Eco. Disadv.	87.7%	62.1%	49.0%	-25.6%	-38.7%	Eco. Disadv.	87.7%	61.2%	48.0%	-26.5%	-39.7%

	TAAS 01-02 Original AEIS 01-02 8TH MATH	TAKS 02-03 Original AEIS 02-03 8TH MATH	TAKS 02-03 Restated AEIS 03-04 8TH MATH	Who Dropped The Most ?????			TAAS 01-02 Original AEIS 01-02 8TH MATH	TAKS 02-03 Original AEIS 02-03 9TH MATH	TAKS 02-03 Restated AEIS 03-04 9TH MATH	Who Dropped The Most ?????	
State	92.9%	73.2%	62.0%	-19.7%	-30.9%	State	92.9%	65.1%	55.0%	-27.8%	-37.9%
Af.A.	86.8%	58.2%	45.0%	-28.6%	-41.8%	Af.A.	86.8%	50.6%	39.0%	-36.2%	-47.8%
Hispanic	90.2%	63.5%	51.0%	-26.7%	-39.2%	Hispanic	90.2%	52.8%	41.0%	-37.4%	-49.2%
White	96.6%	84.9%	76.0%	-11.7%	-20.6%	White	96.6%	79.3%	71.0%	-17.3%	-25.6%
Asian	98.0%	90.2%	85.0%	-7.8%	-13.0%	Asian	98.0%	87.6%	82.0%	-10.4%	-16.0%
Eco. Disadv.	88.8%	61.2%	48.0%	-27.6%	-40.8%	Eco. Disadv.	88.8%	50.8%	39.0%	-38.0%	-49.8%

	TAAS 01-02 Original AEIS 01-02 8th ALL	TAKS 02-03 Original AEIS 02-03 8th ALL	TAKS 02-03 Restated AEIS 03-04 8th ALL	Who Dropped The Most ?????			TAAS 01-02 Original AEIS 01-02 10th ALL	TAKS 02-03 Original AEIS 02-03 10th ALL	TAKS 02-03 Restated AEIS 03-04 10th ALL	Who Dropped The Most ?????	
State	73.4%	69.9%	59.0%	-3.5%	-14.4%	State	85.7%	53.3%	43.0%	-32.4%	-42.7%
Af.A.	62.1%	54.7%	41.0%	-7.4%	-21.1%	Af.A.	79.5%	36.6%	25.0%	-42.9%	-54.5%
Hispanic	63.5%	59.3%	46.0%	-4.2%	-17.5%	Hispanic	77.7%	39.4%	28.0%	-38.3%	-49.7%
White	84.0%	82.5%	73.0%	-1.5%	-11.0%	White	92.9%	67.7%	58.0%	-25.2%	-34.9%
Asian	88.5%	88.1%	82.0%	-0.4%	-6.5%	Asian	91.0%	72.7%	65.0%	-18.3%	-26.0%
Eco. Disadv.	61.3%	56.9%	43.0%	-4.4%	-18.3%	Eco. Disadv.	76.8%	36.5%	25.0%	-40.3%	-51.8%

	TAAS 01-02 Original AEIS 01-02 10th MATH	TAKS 02-03 Original AEIS 02-03 10th MATH	TAKS 02-03 Restated AEIS 03-04 10th MATH	Who Dropped The Most ?????	
State	92.2%	74.2%	61.0%	-18.0%	-31.2%
Af.A.	85.9%	60.4%	44.0%	-25.5%	-41.9%
Hispanic	88.0%	64.3%	48.0%	-23.7%	-40.0%
White	96.5%	84.4%	74.0%	-12.1%	-22.5%
Asian	97.1%	90.6%	85.0%	-6.5%	-12.1%
Eco. Disadv.	87.4%	62.1%	46.0%	-25.3%	-41.4%

The retroactive restating of performance results involved more subjects and more grades than show here. However, the subject of math was particularly striking. This restatement of performance results was repeated for the second year of TAKS testing, in the 2004-2005 AEIS reports, but the restatement was not as dramatic as during the first year of revision.

The TEA's scheming misrepresentation and systemic academic deception continued to devalue academic equity, though its strategy shifted from dramatic reductions in the content mastery required to achieve the State's definition of equity, to bizarre levels of *de minimis* standards for achieving "grade-level" cut scores.

Dr. William Howland, a professor and statistician at St. Thomas University in Houston, shared research that correlated the TAKS math performance by junior high and high school students in the Katy ISD with their classroom grades and their PSAT scores in reading and math during the same academic year. Dr. Howland found a very strong correlation between performing poorly on the TAKS and on the PSAT, however he reported only a very minimal correlation between performing high on the TAKS and performing high on the PSAT.

In his first report, "TAKS Results and PSAT Math Scores," Dr. Howland wrote:

> All middle school data [were] eliminated as were all cases which did not have TAKS or PSAT math scores. Linear correlation and regression was used in an attempt to predict PSAT math scores from TAKS scores. SPSS 14.0 did the calculations for the entire dataset and for subsets defined by school, grade, and subject. For each regression, the linear correlation coefficient and coefficient of determination were recorded, as were the coefficients A and B for the regression equation: PSAT math score = A (TAKS score) + B. Results are given in the tables. The sample size is n, R is the linear correlation coefficient, and R^2 is the coefficient of determination.

Results by school

School	n	R	R^2	A	B
All	8451	0.829	0.687	0.053	-72.47
Katy High	1318	0.811	0.657	0.050	-65.35
Taylor High	1490	0.820	0.672	0.053	-71.43
OAC	72	0.691	0.477	0.044	-52.98
Mayde Creek	1457	0.788	0.621	0.050	-67.97
Cinco Ranch	1523	0.805	0.647	0.049	-62.31
Morton Ranch	1581	0.802	0.643	0.052	-72.55
Seven Lakes	1004	0.798	0.638	0.050	-64.67

Results by grade

Grade	n	R	R^2	A	B
9	4	not	done		
10	4140	0.830	0.689	0.048	-61.64
11	4049	0.825	0.681	0.057	-80.74
12	286	0.334	0.112	0.036	-42.4

It is interesting that we get lower correlations and differing regression equations for students at both ends of the math spectrum. Both the Math Models students and the Pre-AP, Algebra 2 students have regressions that are different from and not nearly as accurate as those for the majority of the students, most of whom are in Geometry and Algebra 2.

Results by class

class	n	R	R^2	*A*	*B*
Algebra 1	195	0.692	0.479	0.042	-49.65
Geometry	2864	0.701	0.491	0.043	-52.73
Geometry (PreAP)	229	0.632	0.399	0.036	-33.13
Math Models	276	0.375	0.141	0.031	-30.81
Algebra 2	2720	0.691	0.478	0.047	-59.85
Algebra 2 (PreAP)	674	0.505	0.255	0.025	-4.39
Algebra 2 (PreAP/GT)	245	0.358	0.128	0.016	24.13
PreCalculus	477	0.660	0.435	0.040	-38.51
PreCalculus (PreAP)	414	0.562	0.316	0.032	-17.36

In his third report, "Limitations in Predicting PSAT Math Scores from TAKS Results," Dr. Howland wrote:

> Data from "Tracking Math Course.xls" were copied to a working file, then all middle school data [were] eliminated, as were all cases which did not have TAKS or PSAT math scores. Linear correlation and regression were used in an attempt to predict PSAT math scores from TAKS scores. SPSS 14.0 did the calculations for the entire dataset and for subsets defined by school, grade and TAKS mastery.
>
> As reported earlier, the TAKS correlates reasonably well with the PSAT math score overall, but the correlation diminishes rapidly as the mastery level increases.
>
> A series of regressions were calculated for all the students above a minimum mastery level. As the minimum mastery level rose, the correlations got worse. For students above a mastery level of about 90%, the TAKS has almost nothing to do with the PSAT math score.
>
> *While doing poorly on the TAKS quite accurately predicts doing poorly on the PSAT, doing well on the TAKS predicts nothing.* This might be because the TAKS and the PSAT math tests are measuring different collections of knowledge and skills or because they are measuring the same collections at different levels of competence.

> The observed reduction in predictive value might also be an artifact of the methodical way in which the samples were chosen, but it is not. After replicating the results for subsets by grade and school, we visited the entire dataset again, but this time we sampled by mastery level for the PSAT Reading test. The correlations dipped slightly, as might be expected from the reduction in sample size, but nowhere nearly as dramatically.

In his fourth report, "The Limited Predictive Value of Classroom Grades in Algebra 2," Dr. Howland wrote:

> Data from "Tracking Math Course.xls" were copied to a working file, then all middle school data [were] eliminated as were all cases which did not have TAKS or PSAT math scores. Linear correlation and regression were used in an attempt to predict PSAT math scores and TAKS scores from classroom grades for students in Algebra 2. Results are expected to differ for Pre-AP and Pre-AP/GT classrooms, so those will be analyzed and reported separately. SPSS 14.0 was used to calculate linear correlations between classroom grades, TAKS percent mastery, and PSAT math score.
>
> As reported earlier, the TAKS correlates reasonably well with the PSAT math score overall, but the correlation diminishes rapidly as the mastery level increases. It seems reasonable to expect a positive, statistically-significant correlation between classroom grades and these two measures of performance. It is difficult to know if the TAKS and the PSAT math tests are measuring different collections of knowledge and skills or if they are measuring the same collections at different levels of competence, but in either case we would expect classroom grades to be measuring at least some of the same things. But the evidence indicates a significant correlation between grades and test scores only in a minority of classrooms. Many of the correlations which do occur are for one test only and not the other. Details are given in the table below.
>
> For the district and for each school taken as a whole, there are low positive correlations between classroom grades and both PSAT math scores and TAKS percent mastery. These are reported here with a warning: *The observed result is not caused by a uniformly-low correlation, but by combining the data from a few classrooms with good correlations with many having little or no*

correlations. Correlations with the TAKS appear to be somewhat higher than with the PSAT math test.

Dr. Howland's research confirmed that the TAKS test clearly "topped out" at the "higher levels" of performance, which makes the diminished performance standards in terms of content mastery on each test even more relevant. Students exhibiting diminished levels of genuine grade-level skills on a *national* test achieved higher "grade-level" skills on a *state* assessment designed, in part, to close the constitutional achievement gap for at-risk, minority students.

Judicial, Statutory, Administrative and Empirical Review 1989-2021

This chapter provides an overview of the rigorously-factual assessment of the State of Texas' failure to achieve its constitutional and statutory mandates to close the achievement gap for disadvantaged students, dominated by children of color, as measured by the State's criterion test of academic skills developed specifically for the purpose of defining and monitoring such gaps.

The achievement gap is vastly more than a constitutional or statutory concept. It is a number. More accurately, it is a series of numbers that vary, depending upon the subject and the grade level of Texas public school students. These numbers elucidate the empirical demands imposed by the State's constitutional burden of equity in achievement.

In the State's criterion academic tests, the standard of scoring for a student to achieve constitutional equity is calibrated by correctly answering x percent of the questions on any test. If 35% of at-risk, economically-disadvantaged students achieve that standard of performance, while 85% of non-economically-disadvantaged students achieve the same standard, the "achievement" or "equity" gap between those groups of students is 50% at that standard.

Thus, the achievement gap is the *difference* in performance among groups of students at a given standard of performance. This is true for every grade-level test and every individual test in every subject administered under the State's student accountability testing program.

1989-2000: Foundational Years of the State's Academic Fraud

FACT: Since the 1989 field testing of the Texas Assessment of Academic Skills (TAAS) testing program, administered to Texas students starting in 1990, the purpose of all such testing has involved the State of Texas developing and implementing a criterion test at grade levels, starting at the 3rd grade and extending through high school exit tests. This included three testing programs: TAAS (through 2002), the Texas Assessment of Academic Skills (TAKS, from 2003 to 2011) and now the State of Texas Assessment of Academic Readiness (STAAR, from 2012 to present).

FACT: The State's development of TAAS in 1989 anticipated specific Legislative initiatives and certain court litigation that would ensue—and did in fact ensue—in 1993 (in the Texas Legislature), in 2000 (in the Supreme Court of Texas) and in 2005 (in the Federal Western District

Court). In effect, State lawmakers were keenly aware that the State faced years of litigation over the issue of disparate performance between White students and children of color, with the focus in that instance being economically-disadvantaged students, dominated statistically by children of color.

FACT: Thus, the TAAS was developed to be an academic metric that was field-tested, modified, and fully operational as the Texas Legislature convened in 1993. The State attested that TAAS carefully calibrated student academic performance at and below grade level and expressed an individual student's college readiness. Grade level and college readiness indicators were included in the State's annual reporting: in the Academic Excellence Indicator System (AEIS) and now in the Texas Academic Performance Rating (TAPR).

FACT: In 1993, the Texas Legislature passed Senate Bill 7, to manifest the State's statutory commitment to closing the academic achievement gap between economically-disadvantaged students, dominated by children of color, and non-economically-disadvantaged students, statistically dominated by White students.

FACT: In 1993, the Texas Legislature authorized the State Board of Education, which has oversight of the TEA, to establish the academic performance levels on the TAAS test that would constitute Texas' achievement of the mandate of closing the achievement gap.

FACT: In 1995, the Supreme Court of Texas affirmed the constitutionality of Senate Bill 7, inclusive of the TAAS test, as the initial metric of the level of academic performance that would represent what the Supreme Court validated as the State's now-constitutional burden.

FACT: In 2000, the Western District Federal Court in San Antonio affirmed that Senate Bill 7, in conjunction with the commitments and standards of the TAAS test as the metrics of compliance, had achieved non-discriminatory, constitutional compliance at the federal level.

FACT: By the time the federal court was considering and then reaching its decision on the constitutionality of Senate Bill 7, with TAAS as the enforcement metric, the State of Texas could point to literally dramatic progress in having closed the achievement gap at all grade levels, tested in all subjects, tested for all ethnicities, dominated statistically by children of color, and for all at-risk or economically-disadvantaged students. By the end of the TAAS testing cycle in the spring of the 2000-2001, following the January 2000 federal court decision, the achievement gaps for all grades for ethnic minorities and disadvantaged students had achieved dramatic closure.

FACT: With a Texas Supreme Court and a federal district court stamp of constitutional approval of Senate Bill 7, inclusive of methodology, the State of Texas was in the legal clear and has remained so through 2022.

SUMMARY:

- The mandate to close the academic achievement gap for economically-disadvantaged students, dominated then and now by children of color, was the driving force in the development of actual TAAS tests. That TAAS itself lacked even the pretense of grade-level academic integrity proved a successful strategy for defending the State in state and federal litigation.
- Senate Bill 7's decision to empower the State of Texas to be the arbiter of its compliance with its self-imposed mandate to close this achievement gap was not an accident. It was a strategic action to ensure that independent agents acting on behalf of judicial oversight of compliance would not be a part of compliance.
- The 1995 Supreme Court of Texas and the 2000 Federal Western District Court in San Antonio elevated Senate Bill 7 to a direct constitutional burden and, importantly, validated the State's authority to establish its own compliance standards expressing confidence—particularly at the federal level explicitly—that the State had proven a strong correlation between the curriculum standards that were the foundation of the initial criterion test, the tests themselves, and the multiple opportunities due to remediation that students would have to pass the 10th-grade exit tests in particular.
- The period of 1989 to 2002 was the pivotal period that established the framework of the constitutional aspects of student academic testing, because it spanned the development, field testing, implementation, and results in achievement gap closure during the precise time of state and federal judicial review.
- In effect, the TAAS tests had the extraordinary burden of empirically demonstrating that the State was making dramatic progress in closing the achievement gap, which was subject to judicial challenge and review starting in 1993-1994 through 2000-2001, which included the timeframe of both court decisions. Two decades after Civil Order 5281, the State had no higher burden than to prove its TAAS test was effective in compensating minority-group children for past racial isolation—the final legal "nail" in the "coffin" of segregation and separate-but-equal school systems in Texas.

The Roots of Student Academic Testing in Federal Civil Order 5281

> "The TEA [is required] to carry out a study of the educational needs of minority children…Curricular offerings and programs shall include specific education programs designed *to compensate minority-group children* [emphasis added] for unequal educational opportunities and ethnic isolation."
>
> Judge William Wayne Justice
> Civil Order 5281 (1972)

Texas' lies about its testing and accountability system are rooted in the State's need to cloak its epic failure to meet the needs of children during the era of segregation and the so-labeled separate-and-equal school systems since.

The attempt to deconstruct these lies must begin in the 1972 federal courtroom of Judge William Wayne Justice, who signed Civil Order 5281. His order, coinciding with the end of segregation, was the final "nail" in the "coffin" of segregation and separate-but-equal school systems, launching an era of reform in academics and school finance.

Politically-rough seas characterized the period from Civil Order 5281 to the 1989 advent of the field testing of TAAS as a burden for closing the academic equity gap for minority-group students. The public education system was under siege and literally in danger of judicial takeover of school finance. The property tax system in Texas— a key component of public education finance—was a helter-skelter operation where the taxable values of homes were deliberately kept low, where industrial and major property values were literally negotiated, and all tax assessors/collectors ran their property tax "kingdoms" without uniform professional standards to ensure equitable property taxation. Some school districts flourished, like those along the ship channel of Harris County, while others with low tax bases floundered. From a practical standpoint, the State of Texas looked the other way—until it was forced under judicial threat to address the situation.

Seven years after Civil Order 5281, under the umbrella of equalizing revenues among vastly-disparate school districts, the Texas Legislature passed the 1979 "Peveto Bill," a sweeping change in the property tax system designed to level the financial playing field for students throughout Texas. It established central appraisal districts, created the role of chief appraiser, and mandated that all property be assessed at true market value.

At the same time, Ross Perot was leading a movement for education accountability, and Governor Mark White imposed *de minimis* competency testing of classroom teachers—one of the factors leading to his defeat in 1982. The TEA also took the first steps toward developing accountability tests that could report student academic performance by ethnicity. Its first student testing scheme, the Texas Assessment of Basic Skills (TABS), soon evolved into the Texas Educational Assessment of Minimum Skills (TEAMS).

It seemed the "dominos" precipitated by Civil Order 5281 were falling, the representatives of poor school districts and minority-group children were tired of Texas' "baby steps" in finance and academics, and the specter of further legal action loomed.

From an academic standpoint, the TABS and TEAMS contained such minimal standards that neither had any genuine credibility as a measure of the State's commitment to equal education for all students. However, the TABS and TEAMS were important for at least these three reasons:

1. The tests conclusively demonstrated the disastrous effects of Texas' separate-and-equal school system on minority-group children.
2. Texas and the TEA came to understand that accountability testing would be the only vehicle to measure its compliance in compensating minority-group children.
3. The tests provided Texas and the TEA valuable information and practice for their development of the TAAS, which began field testing in 1989.

Texas also confronted a harsh reality. In the 17 years between the signing of Civil Order 5281 and the advent of the State's first accountability test in 1989, minority-group children still did not have the following:

- A precise statutory mandate that the academic achievement gap between economically-disadvantaged children, dominated by children of color, would be effectively addressed.
- A direct constitutional mandate from the Supreme Court of Texas that the academic equity gap would close between children of color and children of pallor.
- Any validation from a federal court that Texas had substantively addressed the mandate of Civil Order 5281with any demonstrable program to "compensate minority-group children for unequal educational opportunities and ethnic isolation."

As the 1990s began, many people believed that the judicial system was about to drop the hammer on the Texas public education system. It seemed Texas had no place to run and hide:

- The TAAS had been field tested and was ready for implementation.
- The do-or-die necessity of Senate Bill 7 was on the horizon.
- The Supreme Court of Texas, which included then-Chief Justice John Cornyn and current Chief Justice Nathan Hecht, was waiting in the wings for its 1995 dramatic decision.
- The federal district court in San Antonio loomed in Texas' future.

A decade later, the 2000s began with the carefully-plotted strategy of an accountability test that produced "proof" for the "Texas Education Miracle": dramatically-closed achievement gaps and elevated college readiness for disadvantaged students of color, and the signal that the sinister past of segregation and separate-and-equal schools had dissolved into a chapter of Texas history that no longer included the present.

The Foundations of the "Texas Education Miracle"

By 1990, Texas was prepared to use the TAAS test as the essential academic component of its constitutional burden to compensate minority-group children for past racial isolation.

Unlike the TABS and TEAMS before it, the TAAS was touted as the test that would finally measure genuine grade-level performance. The TEA said the TAAS was so carefully calibrated that it could track the longitudinal academic progress of individual students as they moved from the 3rd to 10th grades. So valid was the test, the TEA said, that higher performance on the TAAS test would serve as a reliable indicator of college readiness, asserting a rigorous correlation to performance on a test administered by the Texas Higher Education Coordinating Board.

Between January 1989 and January 2000, five pivotal events occurred, which reverberated in January 2014 as Texas struggled to cope with the STAAR test, a testing program that has confirmed the TEA's dishonest manipulation of reality for a quarter century:

1. The TAAS testing program was field tested in 1989 and implemented starting in 1990.
2. The Texas Legislature's passage of Senate Bill 7 in 1993 mandated that public education must close the academic equity gap between White and minority-group children, using the TAAS test as the enforcer of that constitutional burden.
3. TEA Commission Lionel "Skip" Meno produced a report reviewing the legislation and, importantly, validating the requirement to close the achievement gap, as defined.
4. In 1995, the Supreme Court of Texas validated a new legislative effort to equalize public school finance, explicitly noting the Legislature's commitment in Senate Bill 7 to close the academic equity gap using the TAAS test as the measure of its success or failure.
5. In January 2000, the Federal District Court of San Antonio explicitly upheld the TAAS test as non-discriminatory, thus giving federal sanction to the State's accountability system, which included remediation and re-testing procedures.

In reality, the first TAAS test results published in 1991 did two important things:

1. It exuded the appearance of academic credibility compared to the "baby steps" of the TABS and TEAMS testing programs.

2. It provided devastating evidence of the damage that had been done to minority-group children who still had not been addressed since the signing of Civil Order 5281.

On the surface, the TAAS possessed credibility. The State published test results that documented its abject failure to minority-group children, suggesting its commitment to reversing course. In the scenario that strategically unfolded, the lower the starting point and the greater the magnitude of the achievement gap, the more success the State would be able to claim as judicial review reached decisions.

The first version of the TAAS targeted 3rd-, 5th-, 7th- and 9th-grade students. The 9th-grade results showed that 64% of White students passed all three of the reading, math, and writing tests, while 29% of the African-American students and 35% of the Hispanic students did the same. The TEA had established a low benchmark, by which its future constitutional progress would be measured, and warning signs of the test's integrity were largely overlooked at the time.

The TAAS testing program evolved over the next three years until 1994, when it became ready for prime time, just as the Legislature was preparing to pass Senate Bill 7. Along with changes in public school finance, the State of Texas finally established in law its commitment to closing the academic equity gap—and another "domino" fell as a result of Civil Order 5281 22 years earlier.

With Senate Bill 7 in 1993, the Texas Legislature ordered the closure of the achievement gap, stating:

A 1993 report by the TEA described the mandates of Senate Bill 7 through the following four explicit statements:

- "The achievement gap between educationally-disadvantaged students and other populations will be closed."
- "Its primary aim is the attainment of excellence and equity in student performance statewide, measured by a comprehensive set of valid assessments and related outcome measures."
- "It is structured to provide accurate and timely information about student performance at state, regional, district, and campus levels for full public disclosure to the state's citizens, the legislature, and all educators."
- "It uses a clearly-defined set of analysis and review procedures by which to judge the efficiency and effectiveness of districts and campuses in educating all public-school students successfully."

With the decision of Senate Bill 7 to change public school finance and commit to academic equity for minority-group children, the next major hurdle would come in January 1995 with a ruling from the Texas Supreme Court. As this judicial battle was waged, the TAAS testing program matured, and test results began to show substantial progress in closing academic equity gaps. Overall student performance was dramatically rising as well.

The Texas Supreme Court ruling acknowledged the role that TAAS played:

> All students shall have access to an education of high quality that will prepare them to participate fully now and in the future in the social, economic, and educational opportunities available in Texas. The achievement gap between educationally disadvantaged students and other populations will be closed.

With this ruling, the TEA had cleared Texas' highest hurdle on its "home-court jurisdiction," at least for then. Next, it confronted a constitutional challenge asserting that the TAAS test discriminated against minority-group children. Part of the complaint alleged that, because the State had established a rule that a student must pass the 10th-grade exit test to graduate from high school, this would create a disproportionate burden on minority-group students. The federal court decision upholding the Texas testing program demonstrated the irreplaceable role that TAAS played in helping the TEA clear legal hurdles in the 1990s:

> Because of the rigid, state-mandated correlation between the Texas Essential Knowledge and Skills (TEKS) and the TAAS test, the Court finds that *all Texas students have an equal opportunity to learn the items* presented on the TAAS test [emphasis added], which is the issue before the Court.

Once again, keep in mind that when the federal court decision was rendered in January 2000, the results of the TAAS test were already being called a miracle and became a major foundation in the election of the next President of the United States.

The academic equity gap is the most important phrase describing the foundation of the Texas public education system and its accountability testing program used to calibrate student academic performance in terms of grade level. The academic equity gap is more than a phrase. It represents a statutory burden first imposed on the state's public education system by the conservative Texas Legislature in 1993 and first

upheld by the conservative Supreme Court of Texas in 1995. Then, in 2000, a federal district court in San Antonio gave Texas' accountability testing the stamp of non-discrimination which completed the state's 28-year journey arising out of another federal district judge's ruling that the TEA was to "compensate" minority-group children "for past racial isolation" imposed during the era of the racist separate-but-equal school system.

TEA Doubles Down as Federal Court Considers Final Hurdle

With the fate of the State's testing and accountability system residing in the proceedings of a federal court, the TEA had literally no margin of error for equivocation in the TEA's position that the TAAS testing program was an academically-honest, genuinely-credible measure of a student's grade-level skills. As the federal court process ran its course, through January 2000, the TEA needed the perception to appear true, so there was literally no public venue where doubt could be tolerated—especially in 1998 and 1999, as decision-day drew ever nearer.

A November 10, 1998 communication from Dallas ISD Superintendent James Hughey to TEA Commissioner Dr. Mike Moses was recognized as an incredible and potential legal threat by the TEA and its protectors of the faith in TAAS' accountability integrity. The second-largest school district in Texas—a majority-minority district—had conducted an internal study that raised grave questions about the academic integrity of the TEA's definition of passing the TAAS, particularly in reading and math, as being a credible measurement of genuine grade level at every grade tested.

Essentially, Dallas ISD had concluded that the *constitutional equity standard of passing the TAAS tests in reading and math, from grades 3-8 and the 10th-grade exit level, were embarrassingly-low and substandard in a statistically-reliable way, with student-by-student results on the nationally-normed Iowa Test of Basic Skills*. In fact, the correlation of constitutional equity asserted by the TEA for reading and math at the 10th-grade exit level could reasonably be defined as functional illiteracy or substantial illiteracy on a national metric that could not be manipulated by the State of Texas.

The sheer force of the Dallas ISD letter and of research findings constituted a grave threat to the TEA's narrative of constitutional equity. Within two weeks, and on the eve of the Thanksgiving holiday, TEA Commissioner Moses published a total defense of the TAAS system on November 23. In definitive, unambiguous language, Dr. Moses wrote:

> The Texas Assessment of Academic Skills (TAAS) is designed to give accurate and specific information about individual student achievement based on the state's curriculum standards, the Texas Essential Knowledge and Skills (TEKS). It is the criterion-referenced nature of the test that allows us to see whether schools are successfully teaching students in the TEKS. While always subject to improvement, the TAAS and our accountability system are the best tools we have for

> increasing student achievement. The agency defines proficiency in reading as passing the reading portion of the TAAS. A student who is "on grade level" is receiving instruction in and performing satisfactorily on the curriculum specified to be taught at the particular grade...In Texas, this curriculum is the TEKS. The TAAS is a criterion-referenced test in that it measures student performance against the TEKS of the corresponding grade..." Thus, the TAAS is an "on-grade-level" measure of student performance. The agency has taken no position on the use of other instruments, including norm-referenced instruments and other criterion-referenced instruments, to complement TAAS.

Dr. Moses did not share a single word to directly refute or otherwise explain the independent findings of the Dallas ISD research department's finding of the *de minimis* relationship of Texas' assertion of constitutional equity and Dallas ISD's empirical correlations of functional illiteracy or substandard literacy to describe Texas' aggressive assertions of constitutional equity.

In June 1999, TEA Associate Commissioner Dr. Ann Smisco became the second major TEA official to give a full-throated affirmation of academic integrity to the TAAS testing program prior to the 2000 federal court decision, at a conference of the National Academy of Science (NAS), which hosted Texas and Kentucky educators at an event hosted by the University of California in Irvine, California. The prestigious Rand Corporation participated as a formal "presenter" in this event, which was covered by national media, inclusive of the *Los Angeles Times*. The author of this analysis was invited by the NAS to serve as an authorized, independent questioner of those making formal presentations. The presentations were preserved by a certified court reporter, who subsequently provided the NAS exact transcripts of every comment made during the conference.

As Smisco delivered her remarks, the federal court was seven months away from issuing its ruling that the TAAS testing program was constitutional, in large part based upon the strong correlation between the rigorous curriculum objectives of the State of Texas and the actual test items on the TAAS.

Smisco's comments included these excerpted direct quotes:

> By law, the exit-level test, of course, has to be highly-reliable and valid, so that every high school student has the same standard to meet, unless, of course, we do actually

change the high school graduation standard. And, we do that by informing 7th-graders of their high school graduation requirement…

Test items are written by our test contractor. We do this through a bidding process. Happens to be National Computer Systems right now. They subcontract with Harcourt Brace Educational Measurement for the item writing. Those items are reviewed by the contractor, first of all, and then by staff internally—our curriculum and assessment staff—to make sure that they match the Essential Knowledge and Skills, and to make sure they're appropriate for the grade level and for the Texas environment…

[We] have a bunch of items that are possible items for a test. Then we have the first of a series of educator review committees that are representative of the state as a whole, both ethnically and geographically. And they are grade-level, subject-area specific. In other words, there's a 3rd-grade reading committee, a 3rd-grade math committee, and so on and so forth. And we try to make sure that the representation is there on every single committee…

That group is asked four questions: Does the item match the objective it's supposed to match? Is it appropriate, that is, should students have learned this information by the end of x grade level? The adequacy of preparation: that is. In your district, did you teach this by the end of x grade? Do students have sufficient information by the end of x grade to be tested on this kind of information? And then, is there any potential bias that you can see in the item itself? That's before we do any kind of field testing…

Those committees have the duty to let us know whether the item should even be field-tested. Sometimes they revise items, edit items. Sometimes they do a little changing. "Don't call it this; call it that." "Make this purple, instead of green." Whatever the case might be. Or, if they just feel the item won't work, they tell us that, and we don't field-test the item. Once they review those items, we go ahead and field-test items…

We annually release every test that we give, so that, once an item is given in a live test, it's no good to us anymore. So, we have to build enough new items every year to totally revise the test or the have a totally new set. We have to have enough items to build a totally-new test every year…

> The items [i.e., questions] really are decided in terms of…whether or not they think that's an appropriate objective for that grade level. Remember, this is a grade-level test. Are these items that kids ought to be able to answer and do well on by the end of the 3rd grade? …
>
> Now the question you may be asking is the last item on this sheet, which is the cut score—the performance standard itself....We use the item statistics and difficulty levels to make sure that the items we pick to put together on each test each year are predicted to have the same difficulty level as the test the year before. We keep the level of difficulty of the test the same, unless we decide that we're going to make that jump to the next level, which we made in 1990 with TAAS…
>
> So, the level of difficulty is designed to be the same from year to year...The State Board of Education...makes the decision about what the passing standard will be. And they do that with data after a benchmark administration. And we provide them with the data about the population performance, each population performance…
>
> As they are making the decision about what this passing standard ought to be, they know at a 50% standard what the pass rate would be for all students, for all African-Americans, Hispanics, and economically disadvantaged at a 60%, at a 70%. At each standard level, they know, when they're making that decision, how it would impact various populations, given the benchmark test, of course.

There should be no legal, interpretative, retroactive rewriting of history, no empirical room for equivocation on Dr. Moses' declaration or Dr. Smisco's narrative. The TAAS was academically rigorous, and "passing" is "grade level." The quality control review processes were in place to make sure that *this is true at every grade in every subject every year during the entire TAAS testing era*.

TAAS: Mission Accomplished or a Pack of Lies?

We now take our first "peek under the hood" of the gross deception of the TAAS era by focusing upon a single, ordinary, low-performing school district during TAAS and even now during STAAR. We will remain focused on the clearly-demonstrated statutory and constitutional burden of closing the achievement gap for at-risk, economically-disadvantaged students, statistically dominated by children of color. The purpose here is to "foreshadow" where this is all going.

We could use many, many hundreds of districts to drive home the point that the era of TAAS testing under the umbrella of state and federal judicial review, officially established, through its own accountability system, that it had achieved its goal by the end of the TAAS testing cycle in the 2001-2002 academic year.

Beaumont ISD qualifies as an "Exhibit A" for school districts dominated by disadvantaged students of color. If TAAS worked, it had to work in a district like Beaumont ISD. The following tables track the closure of the achievement gap in one of the lower-performing school districts in Texas (right), along with the state overall (left). The first set of tables shows performance on all TAAS tests from 1993 to 2002, the second set of tables shows performance in reading, and the third set of tables shows performance in math.

State of Texas: 10th Grade

% Passing @ Grade Level	1992-1993	1993-1994	2001-2002
All			
Af.A	29.3%	30.0%	79.5%
Hispanic	34.5%	36.3%	77.7%
White	67.1%	68.2%	92.9%
Other/Asian	63.4%	66.1%	91.0%

Beaumont ISD: 10th Grade

% Passing @ Grade Level	1992-1993	1993-1994	2001-2002
All			
Af.A	24.1%	27.7%	80.8%
Hispanic	26.3%	31.8%	71.6%
White	56.9%	61.5%	93.2%
Other/Asian	72.5%	70.3%	89.8%

The Progression of TAAS
State of Texas: 10th Grade

% Passing @ Grade Level	1992-1993	1993-1994	2001-2002
READING			
Af.A	56.3%	62.9%	92.5%
Hispanic	56.0%	63.5%	90.5%
White	86.0%	89.1%	97.9%
Other/Asian	75.0%	79.0%	95.3%

The Progression of TAAS
Beaumont ISD: 10th Grade

% Passing @ Grade Level	1992-1993	1993-1994	2001-2002
READING			
Af.A	50.4%	59.3%	92.2%
Hispanic	50.0%	67.5%	79.6%
White	83.4%	87.6%	97.6%
Other/Asian	79.5%	83.8%	95.9%

State of Texas: 10th Grade

% Passing @ Grade Level	1992-1993	1993-1994	2001-2002
Math			
Af.A	34.0%	34.6%	85.9%
Hispanic	41.4%	42.6%	88.0%
White	71.3%	71.9%	96.5%
Other/Asian	76.0%	76.5%	97.1%

Beaumont ISD: 10th Grade

% Passing @ Grade Level	1992-1993	1993-1994	2001-2002
Math			
Af.A	28.0%	30.6%	86.5%
Hispanic	39.5%	40.9%	84.2%
White	59.8%	65.3%	94.9%
Other/Asian	81.1%	73.0%	93.9%

These tables show how the Beaumont ISD—*in terms of achievement gap closure*—looked like a high-performing district. The following chapters will begin the process of dissecting the academic reasons for this dramatic accomplishment, asserted by the State, for districts such as Beaumont ISD.

The Original "Whistleblower": Dr. Kathleen Coburn Exposes TAAS Math Realities

Dr. Kathleen Coburn, an attorney who served in a key curriculum position with Temple ISD deserves full credit for becoming the first published "whistleblower" raising grave questions about the academic integrity of every grade level in TAAS math questions.

Her study, "Mathematics Textbook Analysis for Texas Teachers," was prepared through a federal ESEA grant from the Texas Middle School Division of the TEA. It was authorized by the TEA and published in 1995. The table in this chapter represents the bottom-line conclusions her curriculum team published after evaluating actual test questions on prior administrations of the various grade-level tests.

Whether Dr. Coburn's study was to determine flaws in the initial roll-out of the TAAS testing program for the purpose of adjusting academic rigor is, at this stage, irrelevant.

Subsequent studies of math tests—by the prestigious Rand Corporation, the Harris County public policy nonprofit Tax Research Association, the Dallas ISD, the California-based Mathematically Correct, *The New York Times*, and other news media and independent researchers validated and confirmed the concerns of Dr. Coburn's early warning that the TAAS math testing program was academically substandard and pitched below grade level at every level of testing.

Dr. Coburn's study was conducted as Texas was litigating the constitutionality of its accountability system, supported by its TAAS testing program, with the Texas Supreme Court approaching its decision in January 1995, just before this report was published.

Specifically referencing rigorous academic standards with multiple opportunities for remediation and passing at the all-important 10th-grade exit level, subsequent key language in the January 2000 federal court decision strongly indicates that the plaintiffs did not competently litigate the issues of academic sufficiency, choosing rather to pursue a "discrimination-based" challenge.

By the time the federal court approved the constitutionality of the testing program, Coburn's report had been substantially supplemented by an analysis that included statistically-reliable correlation analysis and exhaustive review of four additional academic years of testing. The TEA made no systemic upgrade in the academic credibility of its math testing, particularly in the junior high and high school levels.

The following tables show that between 58.2% and 69.3% of the questions on the 3rd- through 8th-grade TAAS math tests actually tested curriculum standards that were below the TEA's own evaluation of academic rigor. That percentage reached 72.6% in the 8th grade and a stunning 100% rate for the 10th-grade exit test.

3rd Grade Test TAAS Math Test

Curriculum Elements Actually Tested On Actual Grade Level of Tested Standard

90 Identified Elements Tested

3rd Grade	2nd Grade	1st Grade	Total
35	32	23	90
38.9%	35.6%	25.6%	100%

61.1% Tested Questions Below Grade Level

4th Grade Test TAAS Math Test

Curriculum Elements Actually Tested On Actual Grade Level of Tested Standard

89 Identified Elements Tested

4th Grade	3rd Grade	2nd Grade	Total
29	32	28	89
32.6%	36.0%	31.5%	100%

67.4% Tested Questions Below Grade Level

5th Grade Test TAAS Math Test

Curriculum Elements Actually Tested On Actual Grade Level of Tested Standard

98 Identified Elements Tested

5th Grade	4th Grade	3rd Grade	Total
41	31	26	98
41.8%	31.6%	26.5%	100%

58.2% Tested Questions Below Grade Level

6th Grade Test TAAS Math Test

Curriculum Elements Actually Tested On Actual Grade Level of Tested Standard

108 Identified Elements Tested

6th Grade	5th Grade	4th Grade	Total
34	42	32	108
31.5%	38.9%	29.6%	100%

68.5% Tested Questions Below Grade Level

7th Grade Test TAAS Math Test

Curriculum Elements Actually Tested On Actual Grade Level of Tested Standard

101 Identified Elements Tested

7rd Grade	6th Grade	5th Grade	Total
31	33	37	101
30.7%	32.7%	36.6%	100%

69.3% Tested Questions Below Grade Level

8th Grade Test TAAS Math Test

Curriculum Elements Actually Tested On Actual Grade Level of Tested Standard

106 Identified Elements Tested

8th Grade	7rd Grade	6th Grade	5th Grade	Total
29	37	37	3	106
27.4%	34.9%	34.9%	2.8%	73%

72.6% Tested Questions Below Grade Level

10th Grade Test TAAS Math Test

Curriculum Elements Actually Tested On Actual Grade Level of Tested Standard

109 Identified Elements Tested

10th Grade	8th Grade	7rd Grade	6th Grade	5th Grade	Total
0	31	39	35	4	109
0.0%	28.4%	35.8%	32.1%	3.7%	100%

100.0% Tested Questions Below Grade Level

Mathematics Textbook Analysis
For Texas Teachers
By Kathleen E. Coburn and Temple I.S.D. Staff
Prepared Through an ESEA Grant From The Texas Middle School Division of the Texas Education Agency: 1995
Summary Table Of Key Findings - Full Report Available

It is helpful to recall specific language from that federal court decision validating the Texas accountability system as one achieving constitutionality, as well as words of TEA officials Dr. Mike Moses and Ann Smisco.

The federal court ruled:

> Because of the rigid, state-mandated correlation between the Texas Essential Knowledge and Skills (TEKS) and the TAAS test, the Court finds that all Texas students have an equal opportunity to learning the items [i.e., test questions)

> presented on the TAAS test, which is the issue before the Court.

Dr. Moses wrote to Dallas ISD Superintendent James Hughey:

> The agency defines proficiency in reading as passing the reading portion of the TAAS. A student who is "on grade level" is receiving instruction in and performing satisfactorily on the curriculum specified to be taught at the particular grade….In Texas, this curriculum is the TEKS. The TAAS, a criterion-referenced test, in that it measures student performance against the TEKS of the corresponding grade.

Describing rigorous process, Smisco said at a National Academy of Science convention:

> They subcontract with Harcourt Brace Educational Measurement for the item writing. Those items are reviewed by the contractor, first of all, and then by staff internally—our curriculum and assessment staff—to make sure that they match the Essential Knowledge and Skills, and to make sure they're appropriate for the grade level and for the Texas environment.

Academic equity gaps were still significant in Dr. Coburn's report, which received no statewide publicity and was assigned to a TEA shelf. By 2002, as TAAS would end and the TEA transitioned to another testing program, statewide achievement gaps, as noted in Beaumont ISD, had essentially evaporated.

As future chapters will empirically demonstrate, Dr. Coburn's report dramatically foreshadowed what extended to the entire testing program, including end-of-course testing.

If Beaumont ISD is a symbolic "poster-district" of the State's success in closing the achievement gap for economically-disadvantaged, minority-group children, Dr. Coburn's early whistleblower report genuinely helped us understand the gross academic dishonesty of how Beaumont ISD—and, by extension, similar districts throughout Texas—accomplished so much for the TEA.

Monumental Failure of Legal Strategy

In 1995, Dr. Kathleen Coburn was a lone voice in the educational, political and media worlds of Texas. An employee of a public school district, she produced a report, authorized by the Texas Education Agency, that revealed the widespread academic deficiencies of the State's accountability testing in math.

Her report coincided closely with the Texas Supreme Court's validation of the TAAS testing program as the metric for evaluating the State's constitutional compliance with closing the achievement gap for disadvantaged students, dominated by children of color.

It was not difficult for the TEA and the political structure to "deep six" her report, as if it were never written. However, some three years later, the political world of the State of Texas had begun to dramatically shift. Dr. Coburn's very early warning about the accountability testing system was being independently and newly discovered by a wide range of academic, organizational, and media groups.

By 1998 and 1999, leading up to the previously-cited January 2000 federal court decision, there was a seismic shift of publicity and attention that threatened the State's portrayal of the Texas Educational Miracle. The federal court decision was looming, and a Texas governor was preparing to run for President of the United States: Texas' success in closing the achievement gap for minority-group children would play an enormous role in his credibility in seeking that job.

History tells us that the TEA survived the ever-increasing questions about its system—and that the governor was elected President. The federal court decision of January 2000 played a pivotal role in calming the storm and affirming the credibility of what Texas had done.

History also tells us that the plaintiffs in the trial that worked its way through the state and federal courts made a monumentally-destructive decision to focus upon allegations that the TAAS testing program, which was the enforcer of constitutional equity, was *discriminatory* against minority-group children, rather than grossly insufficient to protect those same children.

In choosing *not* to produce an abundance of extraordinary data, which was available by 1999, or to produce but not competently evaluate the data, the attorneys made a fateful decision that resulted in the continued punishment of Texas students, with a particular damage to minority-group, at-risk, economically-disadvantaged students. In choosing to ignore the evidence and pursue the constitutionally-appropriate path of

requiring genuine academic integrity regarding the burden to close the academic achievement gap, attorneys chose the liberal mantra of discrimination.

Significant evidence was available in the lead-up to the 2000 federal court decision, which instead litigated the discrimination of minority-group children. This evidence included:

1. A 1998 Dallas ISD statistical report documenting stunningly-low correlations in Texas' second-largest school district between supposed grade level and the constitutional equity standard on TAAS reading and math assessments and the national normed-reference Iowa Test of Basic Skills, at all grade levels.
2. A 1998 Tax Research Association correlation between TAAS and the Stanford Achievement Test in Houston ISD, in both reading and math.
3. A 1998 Tax Research Association report entitled "Cracks in the Foundation," which was among the first organizational reports to use extensive TAAS performance data from Houston ISD to raise profound questions about the grade-level integrity of TAAS, in both math and English/Language Arts.
4. A 1998 Tax Research Association report produced by Harvard professor Dr. Sandra Stotsky, which gave strong validation and explanation of the deficiencies of the TAAS reading tests. Dr. Stotsky was subsequently selected by the Fordham Foundation to lead a nationwide assessment of English Language Standards in the United States.
5. A 1998 American Federation of Teachers report labeling the TAAS math tests as the easiest of tests that the organization studied nationally, concluding that 98% of the questions on the tests "basically require students to recognize and plug numbers into a formula which is usually given. The solution jumps out at the student."
6. A 1998 Mathematically Correct research report, which included a lead national researcher of math standards for the Fordham Foundation, concluded that every grade level tested in math, including end-of-course algebra, included a majority of questions that were materially below grade level, giving retroactive support to Dr. Coburn's 1995 report. A subsequent review of two additional years of end-of-course algebra tests by a teacher of advanced placement math and algebra strongly confirmed the prior research findings.

7. In 1999, lead public education researcher Dr. Stephen Klein of the Rand Corporation presented tentative findings at a National Academy of Science Conference in Irvine, California that eviscerated the integrity of the TAAS testing program with use of language that included: "I am not saying that these people cheated, or anything like that. I know there is something wrong....This is not an outcome that we wanted to find at all, because this poses real problems for us, because we had hoped to use the TAAS scores. I don't feel comfortable doing that any more, given these results, because I think the scores are suspect." The Rand Corporation subsequently published a formal report on testing performance during the same time period.
8. In 1999, TEA Commissioner Jim Nelson announced a major change in the TAAS testing program for the 1999-2000 academic year. While the public policy manifestations of the change were available prior to the court decision, the full statistical data were not. This report explicitly addressed the issue of genuine academic integrity in the context of TAAS testing, leading up to the 2000 federal court decision.
9. Beyond these organizational and government-based reports, the Texas and national media were beginning to pay attention. Two major articles were published by *The Houston Press* in 1999 that took a very sharp look at the entire TAAS testing program:
    a. "The Fix Is In," *The Houston Press*, February 25, 1999.
    b. "Adding It All Up," *The Houston Press*, March 4, 1999.
10. While published after the federal court decision, two other national publications focused on that testing era and on data that were readily-available to plaintiff attorneys prior to the federal trial:
    a. "Too Good To Be True," *The American Prospect*, January 3, 2000.
    b. "A Miracle Revisited," *The New York Times*, December 3, 2003.

Dallas ISD Study Eviscerates TEA's Standard of TAAS Grade Level

In February 1999, the Dallas ISD research department shared a stunning set of statistical findings, from which the district's superintendent, James Hughey, made inquiries of TEA Commissioner Dr. Mike Moses in November of the same year.

The district's research team conducted a student-by-student analysis in grades three through eight and in the tenth grade, asking a very basic question: How did students who passed the TAAS tests in math and reading perform on the math and reading assessments of the Iowa Test of Basic Skills (ITBS)? Their research inquired into the statistical correlation of the TAAS reading and math tests, which defined Texas' constitutional equity burden for disadvantaged students, to national, normed tests that were beyond the manipulation of the TEA. The State would soon see the lack of equivalence between its tests and a prestigious, national testing metric over which it had literally no control, thus exposing its failure to close the academic achievement gap for at-risk, economically-disadvantaged children, statistically dominated by children of color.

Dallas ISD discovered and reported to the TEA commissioner these stunning conclusions:

- The TAAS 10th-grade "grade level" score correlated to ITBS' 10th percentile in reading.
- The TAAS 10th-grade "grade level" score correlated to ITBS' 23rd percentile in math.
- TAAS reading scores for the 3rd through 8th grades ranged from the 22nd to 27th percentiles.
- TAAS math scores for the 3rd through 8th grades ranged from the 31st to 42nd percentiles.

Dallas ISD Study: Dated Feb. 9, 1999 TAAS Test Result & ITBS Results					
MATH			READING		
Grade	ITBS %Tile	% Passing TAAS	Grade	ITBS %Tile	% Passing TAAS
3rd	40	84.2%	3rd	22	85.9%
4th	42	86.5%	4th	27	84.5%
5th	40	89.1%	5th	26	82.9%
6th	33	90.4%	6th	26	87.4%
7th	33	87.2%	7th	24	81.6%
8th	31	86.4%	8th	22	83.0%
10th	23	83.3%	10th	10	86.5%

In context, it is essential to note that the low correlation absolutely does *not* mean that all the students who achieved grade level on the TAAS had substandard literacy. It simply means that grade level on TAAS was easily achievable by students with substandard literacy.

In Hughey's November 10, 1998 letter to Dr. Moses, he wrote:

> The Dallas Independent School District is in the midst of developing a new five-year improvement plan. As part of the process, we are conducting a thorough needs assessment and re-examining our goals and current initiatives. We are formulating a strong vision for the future and are in the process of developing an over-arching strategic plan and an action plan for the first year of administration.

Included in Hughey's full letter and report to Dr. Moses, the superintendent's comments included:

> We are stressing the goal of reaching reading competency in the early grades and are becoming more vigilant about assuring that we do not allow social promotion....Is passing TAAS at the end of the 3rd grade a demonstration of

> proficiency? Is passing TAAS at the 3rd-grade viewed as being on grade level by the Agency?
>
> Is the Agency recommending, not recommending, encouraging, or discouraging the use of other instruments than TAAS or Spanish TAAS, in addition to course work, in making decisions about social promotion?"
>
> Given that the goal of the reading program is for all Texans to be proficient in reading by the end of the 3rd grade, how is the Agency defining and measuring proficiency in reading? Is passing TAAS at the end of the 3rd grade a demonstration of proficiency? Is passing TAAS at the end of the 3rd grade viewed as being on grade level by the Agency? Is the Agency recommending, not recommending, encouraging, or discouraging the use of any other instruments such as a norm-referenced or criterion-referenced instruments to complement the information from TAAS?

Recall the statement from Deputy Commissioner Ann Smisco at that NAS conference, about the grade-level integrity of TAAS. The irony is that Smisco used the 3rd grade as her example, when she said:

> The items [i.e., questions] are really decided in terms of their level...whether or not they [the selection panel] think that it is an appropriate objective for that grade level. Remember, this is a grade-level test. It doesn't go above 3rd grade. It is a 3rd-grade test. These are items that kids ought to be able to answer and do well on by the end of the 3rd grade.

As 1998 was coming to a close and the "Texas Education Miracle" was gaining national credibility, the superintendent of Texas' second-largest school district was asking the TEA commissioner whether the TAAS really possessed academic integrity. In effect, Hughey raised an important issue: Should school districts look at other testing measures not controlled by the State of Texas to more thoroughly understand the actual grade-level skills of students?

Excerpts quoted from Dr. Moses' response to Hughey include:

> Your focus on teaching all children to read and on ending the practice of social promotion will serve to improve the educational experience of all Dallas schoolchildren.
>
> At the core of our accountability system is the state's testing program. The Texas Assessment of Academic Skills (TAAS) is designed to give accurate and specific information about

> individual student achievement based on the state's curriculum standards, the Texas Essential Knowledge and Skills (TEKS).
>
> It is the criterion-referenced nature of the test [the TAAS] that allows us to see whether schools are successfully teaching students the TEKS. While always subject to improvement, the TAAS test and our accountability system are the best tools we have for increasing student achievement.
>
> The Agency defines proficiency in reading as passing the reading portion of TAAS. A student who is "on grade level" is receiving instruction in and performing satisfactorily on the curriculum specified to be taught at the particular grade. In Texas, this curriculum is the TEKS. The TAAS is a criterion-referenced test in that it measures student performance against the TEKS of the corresponding grade.
>
> Thus, the TAAS is an "on grade level" measure of student performance. The Agency has no position on the use of other instruments, including norm-referenced instruments and other criterion-referenced instruments to complement TAAS.

As devastating as the Dallas ISD's research was to the TEA's assertion of TAAS academic credibility regarding passing the tests as grade level performance, the District did in fact misinterpret its own statistical data regarding analysis of performance at the top levels of the TAAS test. While a particular and erroneous conclusion of the Dallas ISD report needs to be addressed here, there is absolutely no intent here to question the motivation of the District in a particularly important component of its data when the District asserted in that same communication the following:

> The TAAS contains sufficient higher-order skill items to provide a measure of upper-level performance. However, passing TAAS is an insufficient measure of upper-level performance. A more stringent use of TAAS results must be made to assure the measurement of high-level performance.

In reality, the underlying thesis of the Dallas ISD was correct in that it accurately noted profound deficiencies in assertions of high-level performance. However, the district misread its own data when it asserted that "TAAS contains sufficient higher-order skill items" if only the TEA were to use those items to more accurately reflect true higher-level performance. Numerous independent studies confirm the gross

deficiency of higher grade-level questions, particular in upper junior high through 10th grade exit and end-of-course testing.

In retrospect, what Dallas ISD may have been 'over-focusing' on was the fact that the ITBS percentile average correlations were much higher at the upper ranges of the scores on TAAS's scoring metrics of the Texas Learning Index.

The four tables on the following page are a replication of tables from the full Dallas ISD report that are available to readers. The four tables show on a grade-level basis the average ITBS correlations to students' scores at passing TAAS and three other progressively higher score ranges on TAAS, including TLI 80, 85 and 90.

As noted previously, the passing or grade-level performance on TAAS showed a national percentile ranking of the 10th percentile in reading and the 23rd percentile in math at the 10th-grade level—self-evidently a very low correlation in terms of genuine academic grade level.

When the same correlations were produced for students scoring 90% content mastery on TAAS at the 10th grade, those ITBS correlations rose dramatically, to the 53rd percentile in reading and the 84th percentile in math.

However, higher mean average national percentile rankings at higher levels of TAAS performance had vastly more to do with another factor insulated from any notion that the questions at the upper level of TAAS were credible grade-level questions.

	TEXAS LEARNING INDEX - 70			
	MATH - Pass TAAS		Read - Pass TAAS	
Grade	ITBS %Tile	% At Pass	ITBS %Tile	% At Pass
3	40	84.2%	22	85.9%
4	42	86.5%	27	84.5%
5	40	89.1%	26	82.9%
6	33	90.4%	26	87.4%
7	33	87.2%	24	81.6%
8	31	86.4%	22	83.0%
10	23	83.3%	10	86.5%

	TEXAS LEARNING INDEX - 85%			
	MATH - Pass TAAS		Read - Pass TAAS	
Grade	ITBS %Tile	% At Pass	ITBS %Tile	% At Pass
3	79	84.2%	44	71.3%
4	83	86.5%	56	70.8%
5	69	89.1%	46	69.8%
6	69	90.4%	48	72.0%
7	68	87.2%	49	66.8%
8	68	86.4%	48	68.0%
10	55	83.3%	32	70.7%

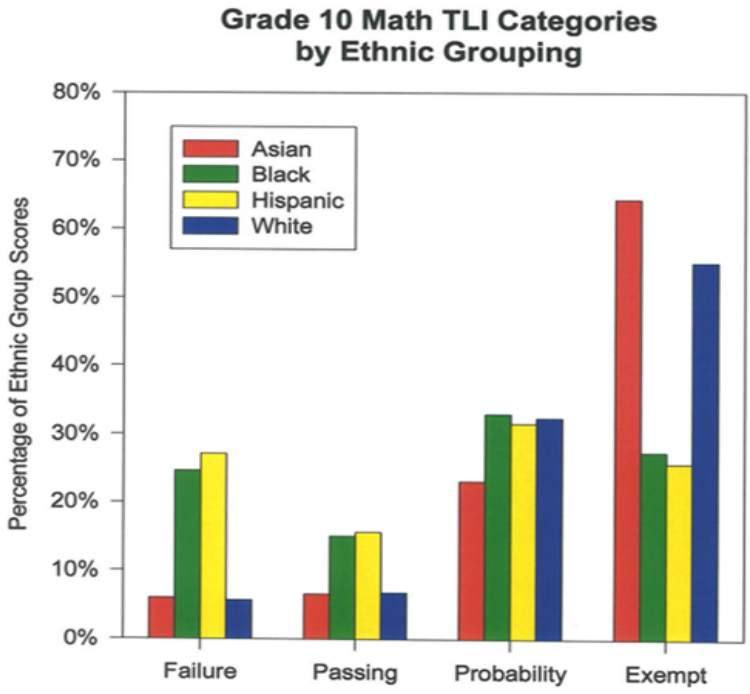
	TEXAS LEARNING INDEX - 80%			
	MATH - Pass TAAS		Read - Pass TAAS	
Grade	ITBS %Tile	% At Pass	ITBS %Tile	% At Pass
3	62	75.6%	36	76.9%
4	66	77.4%	41	81.3%
5	57	82.5%	36	76.5%
6	55	90.4%	35	82.0%
7	55	87.2%	36	76.1%
8	53	86.4%	33	78.3%
10	38	83.3%	16	81.4%

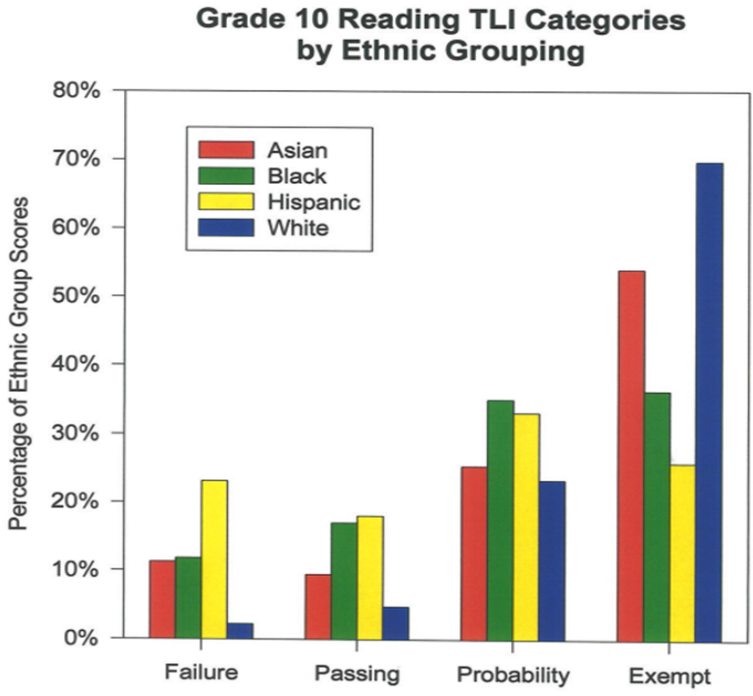
	TEXAS LEARNING INDEX - 90%			
	MATH - Pass TAAS		Read - Pass TAAS	
Grade	ITBS %Tile	% At Pass	ITBS %Tile	% At Pass
3	96	38.2%	60	59.4%
4	97	32.4%	67	58.9%
5	87	47.9%	56	59.2%
6	88	52.2%	60	66.9%
7	93	51.1%	64	61.3%
8	90	46.8%	60	59.5%
10	84	49.0%	53	64.5%

Fortunately, there was a parallel study conducted by the Tax Research Association (TRA) of Houston and Harris County. It retained California-based statistician Paul Clopton of Mathematically Correct to evaluate the same correlation analysis for Houston ISD, which used the Stanford Achievement Test rather than the ITBS for the same academic year as used in the Dallas study.

The findings of the research consultants for the TRA were absolutely consistent with the Dallas ISD findings. Importantly, the TRA study specifically explored the impact of a condition that was referred to by other researchers, including the Rand Corporation who evaluated TAAS, as "topping out." Translated, that simply means that the overall rigor—focusing upon the 10th grade at this point—of TAAS was so uniformly low that it allowed students with mediocre academic skills to reach the upper level of TAAS performance.

The researchers explained that, when that situation occurs, higher correlations on national tests such as the ITBS or SAT9 for higher-level performance on TAAS require a lot more context. The TRA report provided a series of graphics that explained this context.

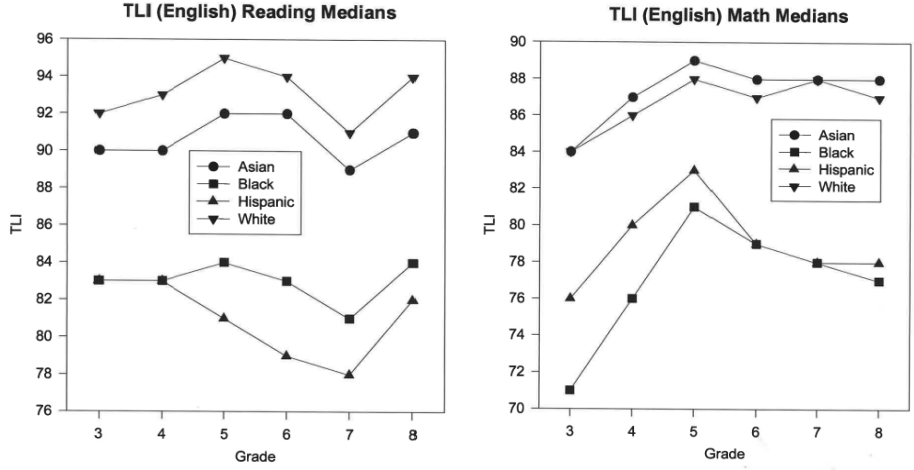

Grade 10 Math TLI Categories
by Ethnic Grouping
Percentage of Ethnic Group Scores
80%
70%
60%
50%
40%
30%
20%
10%
0%
Asian
Black
Hispanic
White
Failure
Passing
Probability
Exempt


Grade 10 Reading TLI Categories
by Ethnic Grouping
Percentage of Ethnic Group Scores
80%
70%
60%
50%
40%
30%
20%
10%
0%
Asian
Black
Hispanic
White
Failure
Passing
Probability
Exempt

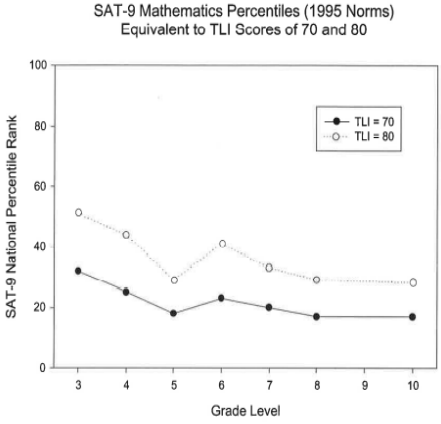
These graphs show the results of the TRA's Houston ISD analysis, focusing upon the 10th grade. The researchers demonstrated that significant percentages of Black and Hispanic students reached the upper levels of TAAS performance. The "probability" bars show the percentage of students who scored higher than just passing the test and who thus, according to the TEA, had a 75% probability of passing the TASP test administered after a student enters a Texas college or university. The "exempt" bars show the percentage of students who scored so high on the TAAS test that they did not even have to take the TASP test after enrolling in a Texas higher education institution. This documents that, while not as high as Asian or White students, the upper levels of TAAS performance were readily achievable in both reading and math.

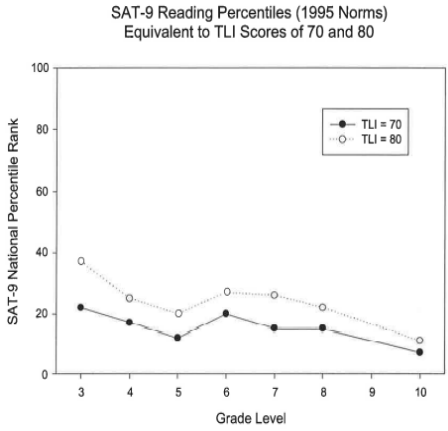
While there are a whole series of graphics from the TRA report for every grade, we will focus on just a few, while summarizing major conclusions that address the particular issue of the TAAS tests topping out, making upper level TAAS performance achievable even by students with much lower performance on independent metrics, such as ITBS and SAT9.

Providing another look at this situation, the following graphs show the average TAAS Texas Learning Index (TLI) scores for grades 3-8 in both reading and math, which are above or well above the passing standard and, like the previous tables, show that significant percentages of Black and Hispanic students were achieving TASP probability or exemption status. While 10th grade is not shown in the particular table, the same patterns exist.



In context, the Houston-focused report confirmed that, in grade after grade, particularly in junior high school and above, statistically-relevant numbers and percentages of students achieved TASP probability or exemption status with SAT9 percentile rankings of between the 10th and 59th percentiles in numbers equal to or greater than students performing at the 70th percentile or above.





It's not that complicated.

- Dallas ISD and Houston ISD were subjected to correlation analysis between their students' TAAS and national-normed test scores near the end of the TAAS testing era.
- Analysis for both districts concluded that the correlation for passing TAAS with national percentile scores on their respective ITBS and SAT9 hovered in the 10th-percentile range in reading and just above the 20th percentile in math.
- Both studies concluded that upper-level performance on the TAAS tests, which was used to predict a degree of college readiness, was readily achievable by students with low levels of high school or college readiness on national tests.

I Am Not Saying They Are Cheating, but Something is Wrong

Some six months before the federal court in Texas would rule that the State's accountability system was constitutional, the prestigious Rand Corporation dropped a "stink bomb" at a California conference hosted by the National Academy of Sciences (NAS) in Irvine, California. Perceived as genuinely threatening to Texas' court position, the fallout persisted well past the federal court decision until the eve of the Presidential election in November 2000, in which Texas' "education governor" was elected President of the United States. In the end, the State survived what could have been a devastating development in federal litigation, had the legal team not abandoned academic integrity as a standard of constitutional equity.

The NAS conference hosted Texas and Kentucky educators, giving educational leaders the chance to brag on themselves, "crowing" about their respective and remarkable successes in improving the educational performance of their students. Further, there was a certified court reporter who captured their self-praise verbatim.

As president of a non-profit research group in Harris County and previously quoted in William Buckley's *National Review* article, questioning the validity of Texas' claims on great academic, I was invited by the NAS to be a "questioner" of conference presenters. I was one of the leading critics of the Texas public education accountability system, and the previous year I resigned from Dr. Moses' Accountability Advisory Committee to pursue vastly more rigorous research of what I had come to recognize as an academically-fraudulent system. By the time of the NAS conference, I was very well known to all TEA officials, including Ann Smisco and interim TEA commissioner Felipe Alaniz, who represented Texas at the conference. I was previously granted an opportunity to question TEA officials and TEA testing contractors in the Commissioner's conference room at the TEA office in Austin.

A member of one of the world's most prestigious research groups, Dr. David Klein was invited to be an independent presenter on Texas at the conference. His afternoon presentation was *not* previewed by TEA officials. In the morning, when it came to light that Kentucky's results might not be all that they were cracked up to be, one Kentucky educator recommended that all reports produced by independent sources be previewed by Kentucky educators. I responded, "Are you seriously suggesting that non-government researchers receive advanced approval of the government to produce reports?"

During the lunch break before the Texas session, while I was talking to Dr. Klein and *Los Angeles Times* reporter Richard Colvin, a Cornell University professor who served as the conference moderator asked me not to ask any questions during the Texas presentation. I thought he was joking. Dr. Klein replied, "Don't worry. When I am through with my presentation, they are *not* going to like me a lot—no more than they like you!" I had no idea of the public policy "neutron bomb" he was about to unleash.

Following the previously-noted, predictable assertions of Smisco, Dr. Klein stunned the group by stating that Texas' assertions of great success in improving student academic performance among minority-group children was "suspect." Describing the results of Rand's independent testing of Texas students, who scored extremely well on the Texas' accountability test, he shared:

> This is not an outcome that we [at the Rand Corporation] wanted to find at all, because this poses real problems for us, because we had hoped to use the TAAS scores. I don't feel comfortable doing that any more, given these results, because I think the scores are suspect.

In previous publications, Rand's published praise of the Texas accountability system was a "feather in the cap" of Texas politicians and the educational bureaucracy. It was, however, praise of what the system said it was: a rigorous correlation between test results and the rating of school districts and campuses.

The working presumption of Rand and others who praised the system in its earliest days was based upon what eventually proved to be an erroneous, untested presumption that the test that undergirded the system was academically credible. However, as Rand began an intensive, due-diligence review in 11 sites across the United States, to document the relationship between the use of reform education practices and improvement in math and science performance, particularly by at-risk students dominated statistically by children of color, The purpose of this targeted project was to help Rand develop a national template of review and evaluation in all states. As Dr. Klein explained, some of the "sites" were districts or campuses. In the case of Texas, the "site" was the state, measured by student TAAS performance.

Dr. Klein added,

> There's a strong relationship between student performance and indicators of socioeconomic status, such as the

> percentage of kids on free and reduced lunch. Just think about the big flap over the NCAA putting in SAT score requirements: What was the major concern? It's because of this close relationship between economic advantage and test scores.

The published test results in Texas, according to Dr. Klein, demonstrated results that overcame this relationship in significant ways because TAAS was purporting to show—even by 1998, with four years of TAAS remaining—dramatic closure of academic equity gaps involving economically-disadvantaged students. As Dr. Klein explained, as part of its national project to evaluate reform efforts and gains in student academic performance, Rand chose to administer independent tests to students at these independent sites, including Texas. It was in the process of administering the independent Rand tests that the prestigious organization lost confidence in the Texas accountability system and in its academic foundation, the TAAS test. The strength of Rand's conclusions was buttressed by the fact that Rand's testing of Texas students came within two weeks of the TAAS test administration.

Said Dr. Klein at the conference: "Same kids. Exactly the same kids two weeks later. We had individual scores."

The results of the TAAS test and the results of the independently-administered Rand tests drew this conclusion: "No relationship at all," Dr. Klein said. "Looks like somebody had hit this thing with a shotgun."

Here is a key segment of Dr. Klein's remarks:

> I am not saying that these people [in Texas] cheated, or anything like that. What I am saying is that when I see these data, I know there's something wrong. It's not right. There's nobody here who would say that there's not a strong correlation between socioeconomic status and test scores. We see it in everything.
>
> What happens when that correlation goes away TAAS and then, two weeks later, it pops back up again with those same students? It is not as if they learned something and then forgot it. That doesn't happen.
>
> And, it's not if the level came up, or something like that. That's what's unique about these data. They're exactly the same kids one-for-one. How could they suddenly do so poorly?
>
> So, that's why I'm suspect about the scores. It's not the case of somebody coming and saying, "These kids really did

> excel." "They really did learn a whole lot," and so on and so forth....But they did come in with an alternative test, and it should have produced [similar] results right back again, right? It didn't happen. That's the part that concerns us."
>
> "This is not an outcome we wanted to find at all, because this poses real problems for us, because we had hoped to use TAAS scores. I don't feel comfortable doing that anymore, given these results, because I think the scores are suspect."

Given that Dr. Klein's remarks were made at a conference intended to showcase the excellence of self-aggrandized results, one can understand the ferocity that his remarks created among the Kentucky and Texas educators who pounced. Dr. Klein stood his ground on all fronts, under withering questioning and comments, and one of the most prestigious educational researchers in the United States was suddenly viewed as the proverbial "object" in the punch bowl.

Dr. Klein said:

> I don't disagree with the goal. We want to move everybody up. We'd like to close the gap. There's no disagreement. It's when suddenly it happens [i.e., the equity gap closes], and then two weeks later it disappears [i.e., the equity gap returns]. That's the problem. In other words, I would be more convinced that you accomplished your goals if I came in and gave a test that was similar in nature, and I got the result that you did. That's the piece that is different here. I tested the same kids two weeks later, and it [the equity gap closure] disappeared. Where did it go? It went into thin air?

Clearly, Dr. Klein's presentation, made on the eve of Texas Governor George Bush's campaign for President of the United States, was perceived by Texas education officials as a threat to his chances of winning the Presidency and to the integrity of the "Texas Education Miracle." This came on the heels of the Dallas ISD's grave concerns about the grade-level credibility of the TAAS testing program, and the momentum and publicity giving rise to sharp attacks on the Texas accountability system was gaining steam.

Rand's assault on TAAS credibility empowered smaller groups, like the Tax Research Association of Houston and Harris County, and Dr. Klein's dramatic warning shot to the National Academy of Sciences was a politely-delivered but "in-your-face" moment that provoked an obligatory and strong political response from the Bush team, which pushed back aggressively against Dr. Klein's statements. The political

pressure to retreat from Dr. Klein's skepticism forced Rand to undertake a more scientific study in the summer of 1999. Questions abounded: How much time would the Rand Corporation need to fully vet every word, every sentence, every table, and every conclusion of a rigorous review? Would it be released on the eve of the Presidential election, thus subjecting it and the organization to claims of politics? Would its publication be delayed until after the election, thus subjecting the organization to allegations of "cover- up" on an issue so important to Bush's quest for the Presidency? Would its findings cast grave shadows over the "Texas Education Miracle" of the governor, who was about to become the next President of the United States?

Rand made the principled decision to publish the report when it had been completed and reviewed—about two weeks before the Presidential election of November 2000. The 18-page report was entitled "What Do Test Scores in Texas Tell Us?" Predictably, the Bush campaign attacked the timing of the report as political in nature; it was a one-day story.

Extended excerpts are included here:

> Our interest in Texas was prompted by an unusual empirical relationship we observed between scores on TAAS and tests we administered to students in a small sample of schools, as part of a larger study on teaching practices and student achievement. Because our set of schools was small and not representative of the state, we decided to explore statewide patterns of achievement on TAAS and NAEP.
>
> In addition, Texas provides an ideal context in which to study high-stakes testing because its accountability system has received attention from the media and from the policy community, and it has been cited as possibly contributing to improved student achievement. The TAAS program has been credited not only with improving student performance, but also with reducing differences in average scores among racial and ethnic groups.
>
> The high stakes testing program in Texas has received much of this attention in part because of the extraordinarily large gains the students in this state have made on its statewide achievement tests, the Texas Assessment of Academic Skills (TAAS). In fact, the gains in TAAS reading and math scores for both majority and minority students have been so dramatic that they have been dubbed the "Texas miracle."

However, there are concerns that these gains were inflated or biased as an indirect consequence of the rewards and sanctions that are attached to the results. Thus, although there is general agreement that the gains on TAAS are attributable to Texas' high-stakes accountability system, there is some question about what these gains mean. Specifically, do they reflect a real improvement in student achievement or something else?

We conducted several analyses to examine the issue of whether TAAS scores can be trusted to provide an accurate index of student skills and abilities. First, we used scores on the reading and math tests that are administered as part of the National Assessment of Educational Progress (NAEP) to investigate how much students in Texas have improved and whether this improvement is consistent with what has occurred nationwide.

Next, we assessed whether the gains in TAAS scores between 1994-1998 were comparable to those on NAEP. We did this to examine how much confidence can be placed in TAAS score gains. Similarly, we measured whether the differences in scores between Whites and students of color on the TAAS were consistent with the differences between these groups on NAEP.

Our findings from this research raised serious questions about the validity of the gains in TAAS scores. More generally, our results illustrate the danger of relying on statewide test scores as the sole measure of student achievement when these are used to make high-stakes decisions about teachers and schools as well as students.

The TAAS program has been credited not only with improving student performance, but also with reducing differences in average scores among racial and ethnic groups. For example, a recent press release announced a record high passing rate on TAAS. According to [Texas] Commissioner of Education Jim Nelson, "Texas has justifiably gained national recognition for performance gains made by our students." Nelson also stated that Texas has "been able to close the gap in achievement between our minority youngsters and our majority youngsters, and we've again seen how we're progressing in that regard."

Figure 1 shows that the Texas 4th-graders in 1998 had higher NAEP reading scores than did Texas 4th-graders in 1994. The size of increase was .13 standard deviation units for White students and .15 units for students of color. However, these increases were not unique to Texas.

The national trend was for all students to improve. In fact only among White 4th-graders was the improvement in Texas greater than improvement nationally, and then only slightly....We discuss the implications of this difference in score gains between groups when we discuss the question of whether Texas has narrowed the gap in performance among racial and ethnic groups.

The TAAS data tell a radically different story [See Figure 1]. They indicate there was a very large improvement in TAAS reading scores for all groups….Figure 1 also shows that on TAAS, Black and Hispanic students improved more than Whites. The gains on TAAS were therefore several times larger than they were on NAEP. And contrary to NAEP findings, the gains on TAAS were greater for students of color than they were for Whites.

Figure 2 shows that 4th-graders in Texas in 1996 had substantially higher NAEP math scores than did 4th-graders in 1992. Moreover, this improvement was substantially greater than the increase nationwide. This was especially true for White students. Nevertheless, the gains on TAAS scores were much larger than they were on NAEP, especially for students of color.

Figure 3 shows that Texas 8th-graders in 1996 had higher NAEP [math] scores than did Texas 8th-graders in 1992, but these differences were only slightly larger than those observed nationally. Thus, as with 4th grade reading, there was nothing remarkable about the NAEP scores in Texas, and students of color did not gain more than Whites.

In contrast, there were huge improvements in 8th grade math scores on the TAAS during a similar four-year period, and increases were much larger for students of color than they were for Whites. The same was true for 8th grade TAAS reading scores during this period.

In 1998, the mean 4th-grade NAEP reading score for Whites in Texas was one full standard deviation higher than the mean for Blacks. To put this in perspective, the average Black student was at roughly the 38th percentile among all Texas test takers, whereas the average White student as at about the 67th percentile.

This gap was slightly larger than the difference between the groups in 1994. In other words, the Black-White reading gap actually increased during this four-year period. The same pattern was present in 4th and 8th-grade math scores.

In contrast, the difference in mean TAAS scores between Whites and Blacks was initially smaller than it was on NAEP, and it decreased substantially over a comparable four-year period. Consequently, by 1998, the Black-White gap on TAAS was about half what it was on NAEP. In other words, whereas the gap on NAEP was large to begin with and got slightly wider over time, the gap on TAAS started off somewhat smaller than it was on NAEP and then got substantially smaller.

The publication of selected excerpts from the October 2000 Rand report "What Do Test Scores in Texas Tell Us" began in Part 12B and continues here.

The large discrepancies between TAAS and NAEP results raise serious questions about the validity of the TAAS scores. However, one plausible explanation, and one that is consistent with some of the survey and observation results cited earlier, is that many schools are devoting a great deal of class time to highly-specific TAAS preparation.

TAAS questions are released after each administration. Although there is a new version of the exam each year, one version looks a lot like another in terms of the types of questions asked, terminology and graphics used, content areas covered, etc.

If the discrepancies we observed between NAEP and TAAS were due to some type of focused test preparation for the TAAS, then this instruction must have had a fairly-narrow scope....In short, if TAAS scores were affected by test preparation for the TAAS, then the effects of this preparation did not appear to generalize to the NAEP exams. This

> explanation raises questions about the appropriateness of what is being taught to prepare students to take the TAAS.

The next paragraph was the research equivalent of a neutron bomb, exploding the integrity of the accountability system and the Texas façade of equity gap closure—even if Rand underestimated the actual "topping out."

> A small but significant percentage of students may have "topped out" on the TAAS. In other words, their TAAS scores may not reflect just how much more proficient they are in reading and math than other students. If that happened, it would artificially narrow the gap on the TAAS between Whites and students of color (because majority students tend to earn higher scores than minority students). Thus, the reduced gap on TAAS relative to NAEP may be an artifact of the TAAS being too easy for some students. If so, it would also deflate the gains in TAAS scores over time. In short, were it not for topping-out, the TAAS gain scores would have been even larger, which in turn would further increase the disparity between TAAS and NAEP results.
>
> The huge disparities between the stories told by NAEP and TAAS are especially striking in the assessment of: (1) the size of the gap in average scores between Whites and students of color, and, (2) whether these gaps are getting larger or smaller.
>
> According to NAEP, the gap is large and increasing slightly. According to TAAS, the gap is much smaller and decreasing significantly.
>
> We again quote Linn (2000, p. 14): "Divergence of trends does not prove NAEP is right and the state assessment is misleading, but it does raise important questions about the generalizability of gains on a state's own assessment, and hence about the validity of claims regarding student achievement." Put simply, how different could "reading" and "math" be in Texas than they are in the rest of the country?

What began as a bold assessment of reality at a NAS conference in 1999 blossomed into a full report by Rand in November 2000. These findings take on renewed life and restored meaning in the context of the three-decade systemic scheme to assault Texas' genuine constitutional burden of meeting the needs of economically-disadvantaged students.

Texas-sized Anxiety

Why did a NAS moderator from Cornell prohibit a conference questioner from asking questions about the "Texas Education Miracle"? The answer brings light to the State's anxiety during a crescendo of criticism—while the matter was under litigation in a federal court in San Antonio—that knowledge was growing of the underlying deception of the system's academic dishonesty. Top Texas officials were increasingly concerned that they were losing grip of the narrative, the Rand presentation at the NAS conference stoked concerns, and Texas was drawing media attention. In light of the governor's Presidential bid and the TEA's need to prevail in federal court, the TEA and its supporters kept alive the story that its accountability system was an academically-credible and constitutional protector of closing the achievement gap for economically-disadvantaged, minority-group children.

Shortly after the June 1999 NAS conference, the governor's office, with associates on the Texas Business Council, demanded to be invited to an executive committee meeting of the Tax Research Association, for the explicit purpose of diverting the TRA from substantive reporting on the Texas public education accountability system, even dismissing its president, the questioner at the NAS conference, if necessary.

That president was me. I had previously resigned as one of two non-educational industry members on TEA Commissioner Dr. Mike Moses' Accountability Advisory Committee. By 1998, I had concluded that TEA's accountability system was fatally flawed and academically substandard. Dr. Moses subsequently invited me to speak with a panel of experts on state accountability at the TEA office in Austin. I opened the meeting with my first question: "At what grade level would each of you, as experts, want your children or grandchildren to be able to answer this question: 'At a restaurant, Steve ordered food totaling $6.85. If he paid with a $20 bill, how much change should he receive?'" This elementary question was included on a 10th-grade exit math test used to calibrate college readiness!

Now, after the NAS conference, an Enron employee and a TRA board member employed by pre-scandal Enron convened the "Enron meeting" to inform me of the emergency meeting of the TRA board to dismiss me as board president due to my reporting on the Texas public education accountability system. Other participants in the meeting included six members of the TRA executive committee, a Texas Business Council representative, and Bush educational staff member and future U.S. Secretary of Education Margaret LaMontagne who opened the meeting

by pulling from an accordion-file copies of the May 1999 *National Review* article with my quote, subtitled, "An education governor?"

In her article, nationally-respected conservative Kate O'Beirne wrote:

> Has the academic achievement risen, as the governor claims? The Tax Research Association, a small outfit in Houston funded by business, says no. Looking at the last four years of state test results, its analysis indicted the state tests themselves, which are the foundation of the "accountability system."
>
> The 10th-grade math test, for instance, would be "more appropriate as a target for 6th grade." The reading tests, too, were found to be below grade level, and to have become easier over the past four years.
>
> George Scott, president of the association, argues that these tests therefore mask fundamental shortcomings in Texas schools. "There are campuses in Texas ranked acceptable where there are significantly high levels of illiteracy."

The article contained a quote by LaMontagne, who "agrees that standards should be higher. But, she asks, 'is there any other state doing better with accountability and assessment?'" For the first time during the TAAS era, Texas was forced to respond to brutal criticism in the nation's most respected conservative publication—and the future U.S. Secretary of Education equated the burden of closing the achievement gap for disadvantaged students to a theory of public policy relativity. Rather than serve as an objective measurement of a constitutional burden, the TAAS had become a *de facto* Picasso painting where beauty—or, in this case, academic equity to "compensate minority-group children for past racial isolation"—was in the eye of the beholder. The Texas Business Council representative brought a quick end to that encounter, saying, "Gentleman, your bosses on the Texas Business Council have told me to tell you that they don't want to see or read anything from George Scott during this campaign."

And the threat worked. The TRA was effectively neutered by the entire fabric of a political and public education structure in Texas that was wholly committed to protecting the myth that Texas was closing the achievement gap at an empirical level, while at the same time arguing the theory of relativity.

Tax Research Association Reports on Texas Testing System

In March 1998, the Tax Research Association (TRA) published the first of four reports. It was perhaps the first serious report beyond Dr. Coburn's earlier one that raised grave questions about the academic integrity of the reading and math assessments of the TAAS testing program, the foundation of the constitutional equity burden to close the academic achievement gap for economically-disadvantaged students.

Entitled "Cracks in the Foundation," the report did not purport to assert statistical correlations or evidence that would qualify as statistically-reliable research.

The report focused on Houston ISD, the state's largest public school district. The goal of the research was very fundamental. With the help of one of the state's leading public education assessment administrators, armed with a Ph.D. in psychometrics, the TRA framed two big-picture questions:

1. On a grade-by-grade and campus-by-campus basis, how did students perform on the TAAS tests and on the Stanford Achievement Test?
2. On a grade-by-grade and campus-by-campus basis, focusing on the high school level, how did those same campuses perform on other academic indicators based upon known differences in performance between high school campuses? That is, why did low-performing high school campuses in Houston ISD achieve equity gap closure rates for economically-disadvantaged, minority-group students that made their "statistics" match high-performing campuses?

While this report did not conduct or claim statistical correlation analysis, it was in fact a dramatic foreshadowing of the Dallas ISD report on the Iowa Test of Basic Skills and a future TRA report that conducted the identical student-by-student correlation analysis on the Stanford Achievement Test in Houston ISD. It also foreshadowed the transition of the Rand Corporations to increasingly-aggressive review of the Texas accountability system.

More importantly, "Cracks in the Foundation" created consternation, anger and attention at the TEA and in its political support structure: A supporter and member of the Commissioner's Accountability Advisory Committee had morphed into a leading critic and was attracting more attention with each passing month. It also created support within the TRA Board for spending the money to produce a more scientifically-

based, academically-based, and statistically-reliable assessment later that year.

Issued in November 1998, the second TRA report analyzed TAAS testing of reading and math and provided the first substantive, academically-rigorous attack on the test's integrity. Harvard professor Dr. Sandra Stotsky, subsequently chosen by the Fordham Foundation to lead that institution's review of ELA standards, published a report on the TAAS reading test, entitled "Analysis of the Texas Reading Tests, Grades 4, 8, and 10, 1995-98."

The TRA reports referenced will be available. In terms of reading, here were Dr. Stotsky's summary conclusions:

Overall Findings

- Analysis of the reading tests at all grade levels and for all four years indicates that the tests from 1995 to 1998 are not comparable in difficulty to each other at any of the grade levels tested.
- Grade 10, 1998: "This test is not as demanding as it should be for grade 10."
- Grade 8, 1998: "The pitch of the test is clearly below grade level."
- Grade 4, 1998: "This test is much too easy for grade 4 students."
- The reading selections at all grade levels "have not been chosen with the most appropriate criterion in mind...The most important criterion for a test of reading is reading level."

This highly-academic view of the TAAS reading tests from a rigorous professional standpoint by a nationally-recognized academician was in every way a dramatic foreshadowing of the statistical analysis of the bottom-line correlations produced by Dallas ISD in both reading and math and by Mathematically Correct, which evaluated Houston ISD in a student-by-student correlation analysis.

A Major Math Study Dissects TAAS

The TRA also funded a similar review of the TAAS math testing program, led by Mathematically Correct, a research-group in California that included statistician Paul Clopton and California State University math professors Wayne Bishop and David Klein. Dr. Klein was subsequently chosen by the Fordham Foundation to lead that institution's review of national math standards. This TRA-funded analysis of four years of TAAS math testing, from 1995 through 1998 remains the single-most devastating academic analysis of the State's systemic practice of diminishing its constitutional burden of closing the academic achievement gap for economically-disadvantaged, minority-group children.

No single credible attack has been made of the conclusions of this report, which likely came to the attention of the Rand Corporation because of its California-based authors. The report, "Statewide Mathematics Assessment in Texas," was published in November 1998. To fully internalize the thesis that the TAAS testing program was willfully manipulated, one does well to read this entire report. The researchers' statistical analysis of math correlations between TAAS and the Stanford Achievement Test mirrored the Dallas ISD's statistical report on the Iowa Test of Basic Skills.

Extended excerpts and conclusions, along with selected graphics, are presented here.

Finding: Grade Level of Items Tested in Four Years Based upon Texas Essential Elements

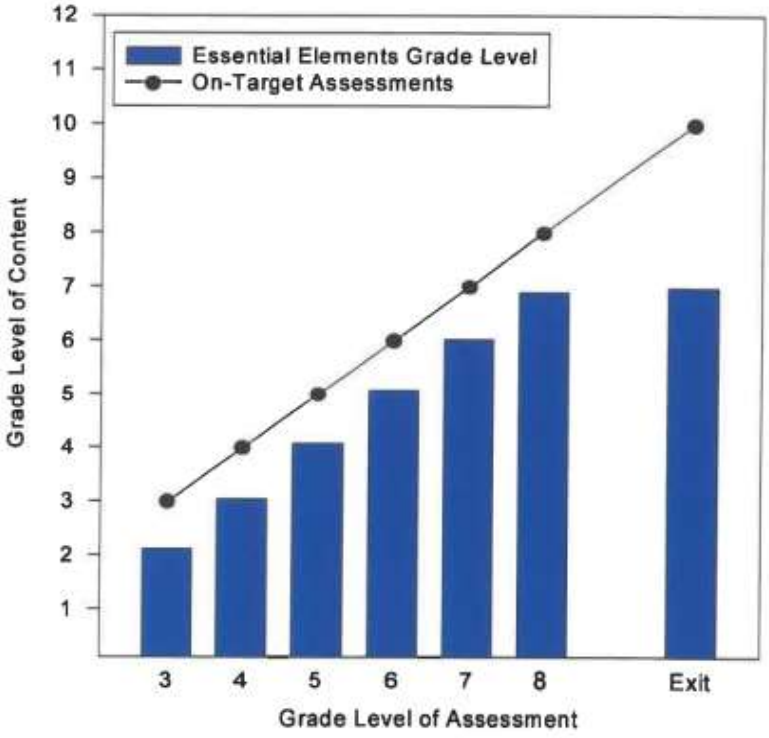
- It is evident in the figure that mean item specifications in the TAAS lag a year behind expected grade level in the Texas Essential Elements *and* that the expectations on those essential elements on the 10th-grade test are nearly identical to the grade 8 exam.
- In terms of the California Standards, endorsed by the Fordham Foundation and used extensively in this report, the math test items from grades 3-8, 10, and end-of-course algebra are much lower than those suggested by the Texas Essential Elements.

Finding: Content Weakness Examples in the TAAS Exit Exam (Reviewing 240 Test Items over 4 Years)

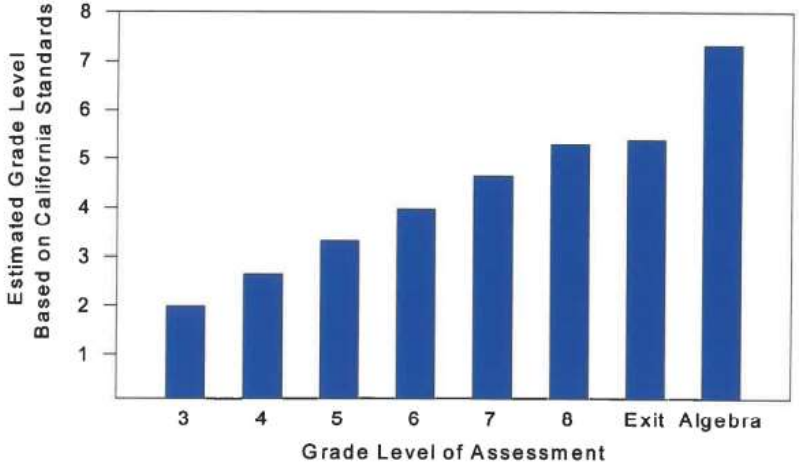
- Addition and subtraction of fractions with unlike denominators: Three addition and three subtraction items were found. Their denominators are simply small integers in each case.

- Multiplication and division of fractions and mixed numbers: There were no instances of multiplication of two fractions. There was one instance of the division of a mix number by a fraction
- Terminating and repeating decimals: There were no items related to this distinction.
- Factors of numbers: There were no items found directly that addressed the factors of numbers, prime and composite numbers, greatest common factor, or least common multiple.
- Powers, roots, and exponents: There were two items found that called for the squares of integers (15 and 40). There was one item found that called for finding the two integers that bound the root of a number.
- Absolute value and negative numbers: There were no items that dealt directly with the distributive property asking for the equivalence of two expressions.
- Properties of real numbers: There were two items found that directly with the distributive property asking for equivalence of two expressions.
- Absolute value and negative numbers: There were no items found that dealt with absolute value. There was one item found that required sorting signed integers, one that asked about the distance between two altitudes of which one was below sea level, and one that required evaluating an expression containing a sum where one replacement value was negative.
- Area and volume: There was one item found asking for a lateral surface area of a cylinder (although the formula is supplied). There was one item found asking for the volume of a rectangular prism.
- Median and mode: There was one item asking for a median.
- Solving equations: There were two items found that asked for the solution of equations.
- The above content areas provide a flavor for the elements of mathematics that are not well represented in the exit level TAAS.

TAAS Grade Level Estimates Based on Essential Elements



Estimated Exam Grade Levels Based on California Standards



Finding: Content "Slippage" Due to Exit Exam Presentation Format

- Students are asked for the ordered pair that represents the intersection of two lines given by linear equations. However, the lines are clearly graphed. This problem thus ONLY requires being able to identify a point on the coordinate grid.
- Students are told that two ladders are leaning against a building at the same angle. They are given the length of both ladders and the distance from the ladder base to the wall for the longer ladder...(However) only one response is reasonable given the illustration that accompanies the problem. In fact, *all* incorrect responses *greatly* exceed the entire length of the shorter ladder.
- Three items appear to require the use of the Pythagorean theorem to solve for unknown lengths of right triangle sides, or at least the recognition and application of the Pythagorean triples. However, the figures are drawn reasonably close to scale and *only one response alternative for each item* is reasonably possible given the figure.
- "Thus, some of the most difficult content areas addressed in the TAAS exit exam have simpler alternative solution strategies available."

Finding: Examples of Low-Level Items in the TAAS Exit Exam

- The total attendance recorded at the 1984 Summer Olympic Games in Los Angeles, California, was 5,797,923. What is this number rounded to the nearest thousand?
- Kenyon is 5 feet and 6 inches tall. His sister Tenika is 7 inches taller than he is. How tall is Tenika?
- At a restaurant Steve ordered food totaling $6.85. If he paid with a $20 bill, how much change should Steve receive?
- "These items (and many others) do not reflect the kinds of skills and knowledge that are grade-level appropriate for high school students. There can be little question that these items are more appropriate to examinations used in much earlier grades."

Judging the TAAS Exit Exam Items

- To assess the target grade level of TAAS exams against external criteria, individual exit exam items were evaluated as to grade level based on the newly-established California Mathematics Standards. These standards provide a desirable benchmark for several reasons:

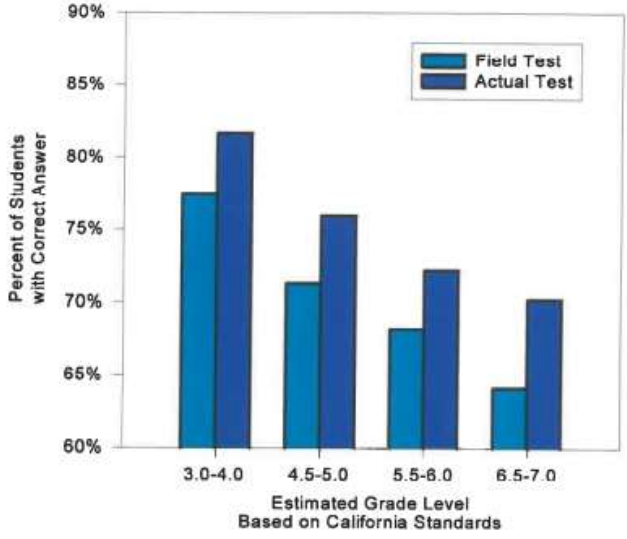
1. They were designed carefully to be on-track with the best international competition, including Japan and Singapore.
2. They are perhaps the most highly detailed of all sets of state mathematics standards, greatly facilitating item evaluation.
3. "They have been judged the best available mathematics standards among all sets of state standards."

Every item found in four years of Texas TAAS testing (240 total items from 1995 to 1998) were evaluated by Clopton and Klein. When the two assessments did not match, they were averaged. The level of rater reliability was r=.813. The average distribution of item grade levels on the TAAS exit exam is illustrated below—overall and by mathematical objective.

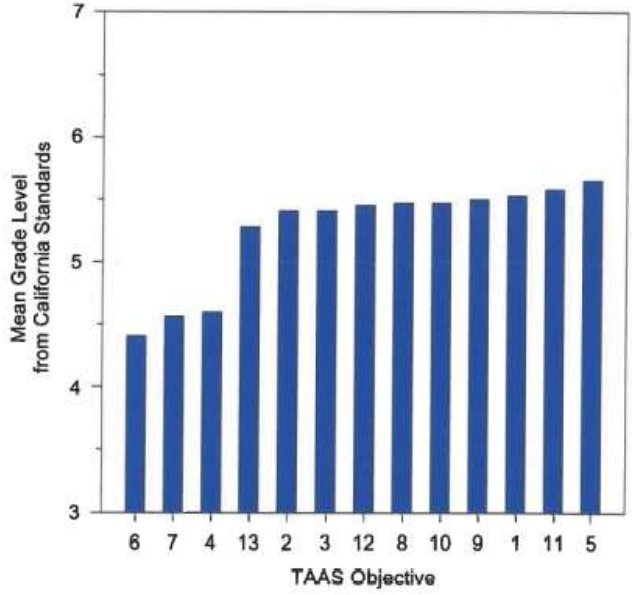
The first table below raises a dramatic point for consideration that was not explicitly evaluated, but was referenced. There is a noticeable increase in the percentage of students who correctly answered the items when published on an official test, than when the p-value of the question was determined in field testing. The table below "tops out" at 7th grade, not 10th grade. However, even in that context of substantially below-grade-level items, the "higher" the grade level in the top table below, the higher the percentage of growth (improvement) between field test and actual test.

Referenced, but not explicitly available for question-by-question analysis, is the fact that every single test in a given academic year was released publicly and available to school districts and classroom teachers *prior* to the next year's administration. In other words, the TEA was able to expose parallel questions a year or more before the objective the question measured was actually given. Thus, an actual field test question could mirror (parallel question) an actual question that has been released and available for "teaching-to-the-test strategies," to artificially boost passing rates in any given subsequent year. That testing strategy occurred regularly in the TAAS testing era.

Percentage of Students with Correct Answers on TAAS Exit Exam by Estimated Grade Level Based on California Standards



Mean Estimated Grade Levels For TAAS Exit Exam Based on California Standards for Each TAAS Objective



The report said:

> The ratings against the California Mathematics Standards yielded a mean grade level of 5.3 for the TAAS exit exam. The most advanced TAAS exit items were judged as equivalent to the California Grade 7 standards. Admittedly, the California Standards are set at a high level, being roughly equivalent to progress in Singapore and Japan. Nonetheless, the low estimated grade level is striking. Moreover, the California Standards are designed to complete the content of pre-algebra by grade 7, so that students will be ready to study algebra and geometry in grades 8 and above.

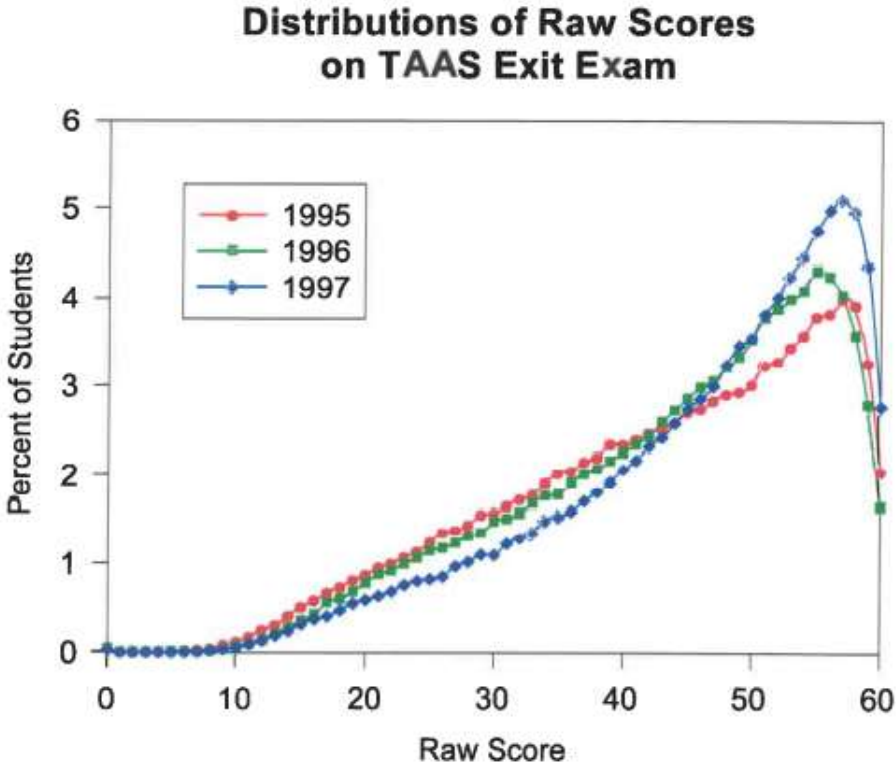
In a phrase, the authors statistically documented that the *de minimis* grade-level questions created a situation of "topping out" of the higher levels of performance, so that most students, regardless of actual academic skill, *passed* the TAAS exit test. By reducing the performance standards of passing, the system made the higher levels of performance of the tests more readily achievable, irrespective of actual grade-level skills.

In statistical terms, the authors wrote of the "negative skews":

> The distribution of raw scores on the TAAS exit exams are given below for three test years. These show strong negative skews. The presence of negative skew is not surprising given that the initial target of 70% correct is surpassed by a majority of students. However, the degree of skew is sufficient to suggest that the TAAS cannot function effectively in the identification of high achievement levels, and ceiling effects in the distribution are obvious.

While the Dallas ISD study successfully described the deficiency of grade-level and constitutional equity standards of the TEA accountability standard, its major flaw was its failure to address the "topping-out" of the TAAS. The researchers of the TRA report concluded:

> Since the exams do not differentiate well at higher achievement levels, we cannot tell whether or not the implementation of the assessment is leading to similar ceiling effects in actual achievement. However, the lack of sensitivity to high achievement levels would suggest that the TAAS will not be effective at motivating achievement for a good proportion of students.


Distributions of Raw Scores
on TAAS Exit Exam
Percent of Students
Raw Score
1995
1996
1997
0
1
2
3
4
5
6
0
10
20
30
40
50
60

Non-sensical and Below Grade Level: TAAS as the Foundation of Equity

It is necessary to internalize the scope of academic manipulation of TAAS in order to understand the academic depravity of the transition to TAKS, which, in turn, contributed to the equity gap data we have seen throughout Texas through the 2019 administration of the STAAR test, prior to the COVID-19 pandemic.

This chapter will make clear that:

- End-of-course algebra testing for 1995 through 1998, 2000 and 2001 as not genuine measurement of genuine algebra grade level.
- Independent studies have confirmed that the State's end-of-course (EOC) algebra tests did not address algebra at anything resembling a genuine grade level of credible algebra.
- EOC biology tests did not test biology at any meaningful level.
- Actual examples of TAAS math questions illuminate the statistical correlations and analysis of actual questions.

We begin with end-of-course algebra. In the previously-noted TRA report, "Statewide Mathematics Assessment in Texas," California researchers evaluated all 160 questions on the end-of-course algebra tests for four years, from 1995 to 1998. The TRA subsequently retained an algebra and Advanced Placement math teacher to replicate the analysis for academic test in 1999 and 2000. Though done completely independently, their conclusions, shown in the following table, were strikingly consistent.

We begin with end-of-course algebra. In the previously-noted TRA report, "Statewide Mathematics Assessment in Texas," California researchers evaluated all 160 questions on the end-of-course algebra tests for four years, from 1995 to 1998. The TRA subsequently retained an algebra and Advanced Placement math teacher to replicate the analysis for academic test in 1999 and 2000. Though done completely independently, their conclusions, shown in the following table, were strikingly consistent.

Each of the 240 EOC algebra questions were rated on the following standards: prior to pre-algebra, pre-algebra, low-difficulty algebra, moderately-difficult algebra, and highly-difficult algebra.

- In both research efforts, not a single algebra question of the 240 items was rated as "highly-difficult."

- The California researchers labeled 48.8% of their 160 EOC algebra questions as "pre-algebra" or "prior to pre-algebra," and the classroom teacher labeled 46.3% of her 80 questions in those categories.
- The California researchers labeled 48.1% of their 240 questions as "low-difficulty," while the classroom teacher labeled 40.0% of her 80 questions in that category.
- The primary difference in these studies was that the California researchers rated just 3.1% of their problems as "moderately-difficult," while the classroom teachers labeled 13.8% of her problems in that category. This may be due to the fact that the California researchers noted that there were problems they would have rated higher, except that they contained "external factors, including multiple-choice formats and embedded solution strategies." The classroom teacher, on the other hand, did not devalue her rating but noted that the permitted use of a calculator made numerous problems much easier to solve. The results of these studies were strikingly similar and conclusive: EOC algebra exams struggled to test genuine grade-level algebra.

AP Classroom Teacher Evaluation: EOC Algebra

1998-1999 and 1999-2000 (80 Questions Over Both Years)

Evaluation of Academic Rigor	Number of ????	% By Category	?? Easier By Calc.
Prior Pre-Algebra	6	7.5%	1
Pre-Algebra	31	38.8%	16
Low Difficulty	32	40.0%	9
Moderate Difficulty	11	13.8%	3
High Difficulty	0	0.0%	0
TOTAL	80	100.0%	36.3%

Prior TRA Study Summarized: 1995-1998

Prior Pre-Algebra	14	8.8%
Pre-Algebra	64	40.0%
Low Difficulty	77	48.1%
Moderate Difficulty	5	3.1%
High Difficulty	0	0.0%
TOTAL	160	100.0%

Combined Over 6 Years

Prior Pre-Algebra	20	8.3%
Pre-Algebra	95	39.6%
Low Difficulty	109	45.4%
Moderate Difficulty	16	6.7%
High Difficulty	0	0.0%
TOTAL	240	100.0%

Prior Pre-Algebra	*Roughly 4th or 5th Grade Equivalence*
Pre-Algebra	*Standard Pre-Algebra*
Low Difficulty	*Easy Algebra*
Moderate Difficulty	*More Sophisticated Analysis*
High Difficulty	*Rigorous But EOC Appropriate*

California Researchers Considered Multiple Choice As Factor While Teacher Noted Impact of Calculator Use

Prior to Pre-Algebra or Pre-Algebra

California Researchers
48.8%
Katy I.S.D. AP Teacher
46.3%

High Difficulty

California Researchers
0%
Katy I.S.D. AP Teacher
0%

Low or Moderate

California Researchers
53.8%
Katy I.S.D. AP Teacher
51.2%

Moderate

California Researchers
3.1%
Katy I.S.D. AP Teacher
13.8%

2 Notes From Separate Studies

The **classroom teacher** did not DEVALUE the problems' rigor because of external factors but noted the impact of calculator on the rigor of specific questions. The teacher noted that the use of a calculator in 28% of the low & moderate rated questions made each much easier to solve. In other words, rigor impact noted but not discounted.

The California Researchers DID DEVALUE 14% of the questions' rigor due to external factors including multi-choice format and embedded solution strategies. Absent these differences, the overall conclusions are virtually 'dead-on."

We now look at EOC biology tests through the lens of an experienced Advanced Placement science teacher who evaluated TAAS biology for the final two years of formal TAAS testing in Biology.

Her conclusions are reflected in the following table. Of the 84 EOC biology questions during the last two years of TAAS, she found no difficult, genuine, grade-level questions. In contrast, 49% of questions were deemed "low difficulty" questions, and only 26% were biology questions of "moderate difficulty." Remarkably, she concluded that 25% of the questions did *not* test biology, and that 35% of the total questions were more appropriate for junior high science!

EOC Biology Exams Evaluted: 2000 & 2001 Katy I.S.D. AP Biology Teacher Findings		
Evaluation of Academic Rigor	Number of ????	% of ????
Difficult	0	0%
Moderate Difficulty	22	26%
Low Difficulty	41	49%
Not Testing Biology	21	25%
TOTAL	84	100%
Considered Junior High Appropriate		
Junior High Level	29	35%

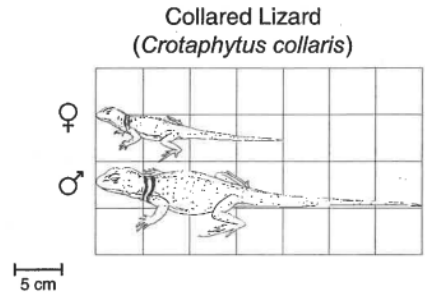
If TAAS tests received awards, EOC biology would no doubt win "least grade level" and "most psychometrically-deprived of academic integrity."

A strong case can be made that the following 14 EOC biology questions symbolized everything that went horribly and tragically wrong in the TAAS era of testing accountability and equity gap closure. One easily sees that a student would not need any substantive knowledge of junior high science or biology to correctly answer many such questions. We observe the practice of 'dressing up' questions with biological terms and references that literally have zero connection to solving underlying elementary or middle school math, for example. Such questions prove that the State of Texas had no credible commitment to closing the grade-level achievement gap for economically-disadvantaged children and preparing them for higher education?

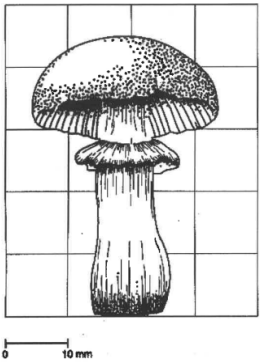
Let's start with the Collared Lizard further identified as *Crotaphytus collaris*. The graph represents the question which is how much longer is the male lizard than the female lizard?

Here's the actual question: "Male collared lizards are longer than females. According to the pictures above, the difference in length

between the male and the female collared lizard when measured from the tip of the nose to the tip of the tail is approximately…" This is a "biology" question which asks a student to multiply 3 x 5. It gives the centimeter (cm) length of each square and makes it even easier by making the difference three even squares. Ask a question. When would you want your child or grandchild to be able to answer a question that asks a student to multiply 3 x 5?



Cut to the chase on these on these multiple-choice questions: What did the student need to do to get an accurate measurement with the beaker? Common sense yields the answer. How tall were the mushroom and the bear? Elementary school math answers these questions. In the "Storage Compatibility Chart," the student did not need to have any understanding of the underlying safety issues or the compatibility of each of the potentially-dangerous components. The TEA's *de facto* multiple-choice "bread crumbs" led to the answer for storage compatibility.



Storage Compatibility Chart

"X" indicates groups are incompatible and should NOT be stored together.

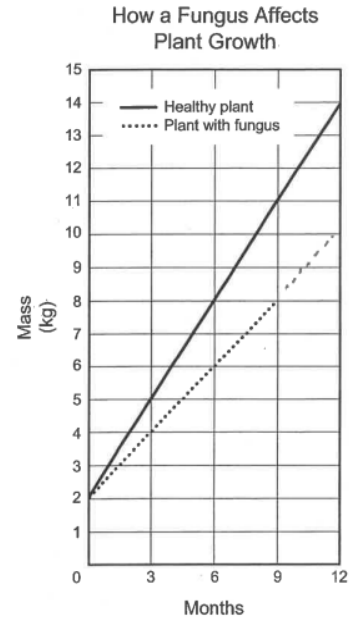
Group A	Group B			
	Amines	Ammonia	Caustics	Ketones
Vinyl acetate	X	X		
Nitric acid	X	X	X	X
Sulfuric acid	X	X	X	X
Organic acid	X	X	X	

36 The chart shows the storage compatibility of a few chemicals. According to this chart, which pair of chemicals can be safely stored together?

F Vinyl acetate and amines
G Nitric acid and caustics
H Sulfuric acid and ammonia
J Organic acid and ketones

Here are three more.

One does not have to know anything about fungus' effect on plant growth. There is zero connection to plant growth, fungus, and solving this problem. The dotted line hits 2, 4, 6, 8 in sequence. What's next?



40 The graph shows the growth curves of a healthy plant and a plant infected with a fungus. If this trend continues, what will be the mass of the plant infected with the fungus at 12 months?

F 10 kg
G 11 kg
H 12 kg
J 13 kg

What does one have to know about the biology of estivating frogs, the definition of "estivating," or mass? Absolutely nothing. This is probably a middle school math function since it involves triple-digits. Let's see: 450 – 8 = 442; 442 – 8 = 434; 434 – 8 = 426. What comes next is *not* biology!

Change in Mass of Estivating Frogs

Week	Average Mass After Estivation (g)
0	450
3	442
6	434
9	426
12	???

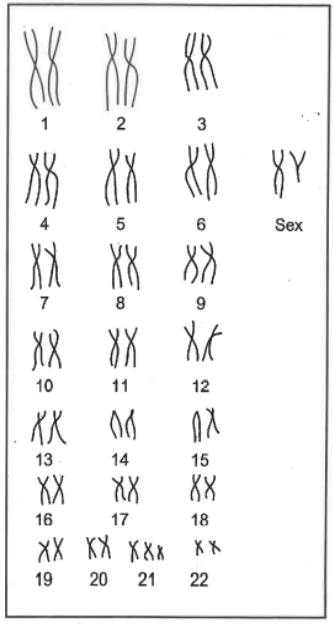
Next up: This might qualify as an elementary school reading challenge, given that the label explicitly reads, "WARNING: DO NOT take this product if you have had severe reaction to aspirin." It even used the word "allergic" in the context of "Do Not."

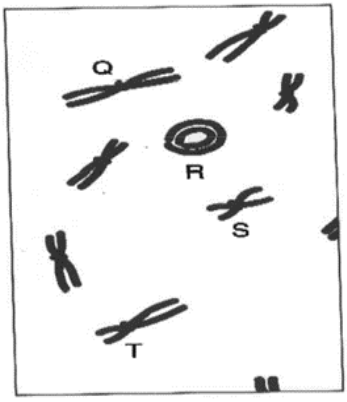
11 According to this label, people should **NOT** take this pain reliever if they —

A suffer from cold-related headaches
B are allergic to aspirin
C have high blood pressure
D experience mild heartburn

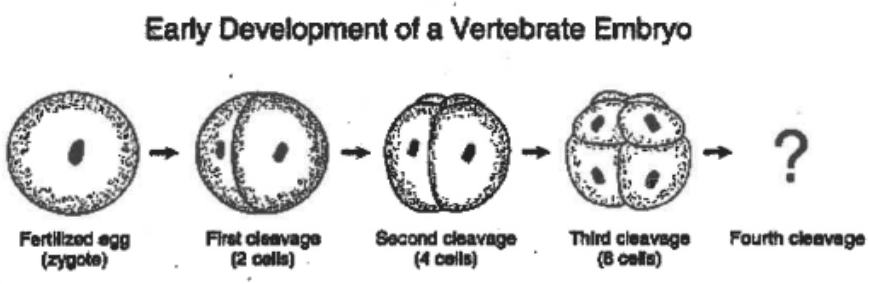
Here we go again: Here's what you do *not* need to know. As a biology student, you need to know absolutely nothing about human karyotypes—usual or unusual. You simply have to be able to count to three in order to identify an unusual human karyotype.

There is no need to understand anything about chromosomes. You simply need to distinguish a circle from twisted Xs.





There is no need to have any underlying biological understanding of vertebrate embryos. You simply need to recognize an elementary school math sequence: 2 x 2 = 4; 4 x 2 = 8; 8 x 2 = the answer. Biologists need not be consulted on this matter.



Here's everything involving the subject of biology that a student does *not* need to know to answer the questions posed here:

Sunflower Blossoms in a Meadow

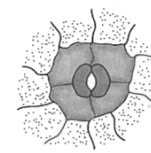
Day	Time	Closed Buds (%)	Open Blossoms (%)
1	6:00 A.M.	100	0
	12:00 NOON	85	15
	6:00 P.M.	70	30
2	6:00 A.M.	55	45
	12:00 NOON	40	60
	6:00 P.M.	25	77

- A student does *not* need to know anything about sunflowers, closed buds or open blossoms. A student simply needs to detect a number sequence, knowing that 0 + 15 = 15; 15 + 15 = 30; 30 +15 = 45; 45 + 15 = 60; and 60 + 15 is the answer—an elementary school problem.

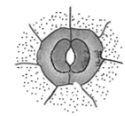
Reactions of Planaria to Different Stimuli in a T Maze

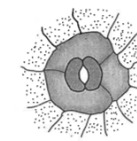
Stimulus	Average Number of Times a Planarian Moved		
	Toward	Away	No Response
Plant	18	4	3
Light	2	23	0
Rock	8	8	9
Food	25	0	0

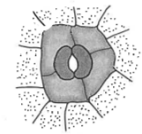
- A student does *not* need to know anything about planaria, stimuli in a T Maze, or even what a T-Maze is. The actual question says: "The data supports the hypothesis that a planarian moves away from: (a) Plants, (b) Light, (c) Rocks, or (d) Food? Note the "away" column and observe the numbers 4, 23, 8 and 0. The question might as well have been—without any biological implications: What number is by far the highest?
- A student does *not* need to know anything about epidermal cells or stomata to be able to recognize visual patterns.

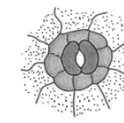


4 There are many different ways that plant epidermal cells can be arranged around the stomata on plant leaves. Which of these has a development pattern most similar to the pattern pictured above?

F 

H 

G 

J 

Beyond statistical correlations and item analysis by experts, independent studies by academicians and statisticians concluded that the TAAS testing program in reading and math was pitched lower academically as the grade level rose, reaching its maximum degeneration in end-of-course high school testing and the high school exit-level tests in the 10th grade. This explains why the Dallas ISD and Tax Research Association concluded that the passing standard in TAAS 10th grade reading correlated to the 10th percentile of the Iowa Test of Basic Skills or the Stanford Achievement Test.

The following presentation of parallel questions shows how the same questions are essentially included on various grade-level tests, thus making it unclear at which grade level a student should be able to answer the question(s).

Parallel Questions Across Grade Levels

- TAAS Grade 5 (1996-97): Byron bought some groceries. The total was $17.44, including tax. If he paid with a $20 bill, how much change did he receive?
- TAAS Grade 5 (1997-98): A magazine cost $3.75. Lenny gave the clerk $20 for the magazine. How much change should Lenny have received from the clerk?
- TAAS Grade 6 (1995-96): Mrs. Vargas pumped $5.67 worth of gasoline into her car. If she gave the gas station attendant a $10 bill, how much change should she receive?
- TAAS Grade 6 (1998-99): Ms. Foster put $10.32 worth of gasoline into her car. If she gives the gas station attendant a $20 bill, how much change should she receive?
- TAAS Grade 7 (1997-98): A trip for a school band will cost $425. The band students have raised $98.46. Exactly how much do they still need to raise?
- TAAS Grade 10 (1988-99): Ashley had $127.34 in her savings account. After withdrawing $48.65, how much remained?
- TAAS Grade 10 (1997-98): At a restaurant Steve ordered food totaling $6.85. If he paid with a $20 bill, how much change should he receive?
- TAAS Grade 10 (1997-98): Jerry bought two textbooks at the campus bookstore and was charged a total of $66.89, If he paid the cashier with a $100 bill, how much change should he receive?

Parallel Questions Across Grade Levels

- TAAS Grade 5 (1997-98): Alexander bought a book for $12.89, a ruler for $1.75, a calculator for $14.89, and a dictionary for $26.76. How much money did he spend altogether, not including tax?
- TAAS Grade 5 (1998-1999): Amanda bought 4 books for $2.95, $11.49, $17.50, and 24.85, not including tax. How much did the books cost, not including tax?
- TAAS Grade 6 (1996-97): LaTasha wants a blouse that costs $17.50, a skirt that costs $24.69, and a belt that costs $6.88. What is the cost of the outfit she wants to buy before tax is added?
- TAAS Grade 7 (1988-99): Meryl saved $78 from doing yard work, $8.13 from her allowance and $34.50 from gifts. What was the total amount she saved?
- TAAS Grade 8 (1988-99): Including tax, Sandy paid $24.95 for a sweater, $22.49 for shoes, and $6.89 for earrings. How much did she spend altogether?
- TAAS Grade 10 (1988-99): A motorist asked for direction and was told, "Go 10.5 miles straight ahead, then turn right and go 3.3 miles, then turn left and go 5.7 miles farther." If the motorist follows these instructions, how far will he travel?
- TAAS Grade 10 (1995-96): Mr. Appleton spent $8.50, $10.20, $17.59 and $22.90 for 4 prescriptions at the drugstore. What is the total amount that Mr. Appleton paid for his prescriptions?
- TAAS Grade 10 (1998-99): Sarah bought a rake for $8.29, a garden hose for $12.99, and a 50-pound bag of topsoil for $4.49. How much did she spend altogether?

Parallel Questions Across Grade Levels

- TAAS Grade 3 (1994-95): A fence 9 feet high is to be built around a rectangular field. How many feet of fencing will be needed? [54 feet and 120 feet for respective sides of rectangle are show in graph.]
- TAAS Grade 3 (1997-98): How much ribbon is needed to go all the way around the bulletin board shown below? [5 feet and 4 feet for respective sides of rectangle are show in graph.]
- TAAS Grade 3 (1998-99): A park in the shape of a rectangle is 50 yards wide and 100 yards long. What is the perimeter of the park?
- TAAS Grade 4 (1998-99): The softball diamond measures 60 feet between each base. If Laquita starts at home base and runs all the

way around the bases in order, how many feet will she have to go to get back to home base? [Graphic included in actual test.]

- TAAS Grade 5 (1996-97): Paul walked around the perimeter of a garden. The garden measures 75 feet by 100 feet. How far did Paul walk?
- TAAS Grade 5 (1998-99): What is the perimeter of this square? [Graphic shows length of one side].
- TAAS Grade 6 (1994-95): What is the perimeter of this rectangle? [Graphic shows respective sides of 25 cm and 16 cm, and answers are expressed in centimeters].
- TAAS Grade 10 (1996-97): Devon's house is on a rectangular block that is 330 yards long and 1120 yards wide. What is the distance around this block? (a) 450 yards (b) 570 yards (c) 900 yard (d) 2900 yards

Parallel Questions Across Grade Levels

- TAAS Grade 8 (1997-98): According to the almanac, the population of Los Angeles, California is 3,485,398. What is the population of Los Angeles rounded to the nearest thousand?
- TAAS Grade 10 (1995-96): Total attendance recorded at the 1984 Summer Olympic Games in Los Angeles, California was 5,797,923. What is this number rounded to the nearest thousand?

Parallel Questions Across Grade

- TAAS Grade 7 (1994-95): Gloria bowled 4 games. Her scores were 93, 105, 84, and 110. What the is mean (average) of Gloria's 4 scores?
- TAAS Grade 7 (1997-98): There were 18 students in Monica's class on Monday, 23 on Tuesday, 21 on Wednesday, and 18 on Thursday. What was the mean (average) number of students present for these 4 days?
- TAAS Grade 8 (1997-98): Carla's midterm grades were 93 in English, 88 in mathematics, 81 in social studies, and 82 in science. What was the mean (average) grade in the 4 subjects?
- TAAS Grade 10 (1997-98): Ms. Bateman recorded her weekly grocery bill for 4 weeks. The amounts were $90, $85, $115, and $90. What was the mean (average) of the grocery bills?
- TAAS Grade 10 (1997-98): The ages of the students in a dance class are 15, 10, 16, and 15. What is the mean (average) age of these students?

A full reporting of similar examples from the span of the TAAS testing era would fill several hundreds of pages. These examples are provided to clearly demonstrate the vastly below-grade-level status of the TAAS testing program, particularly for end-of-course high school tests and at the 10th-grade exit level—efforts of massive and deliberate academic manipulation, scheming, and deception that the TEA engineered for TAAS. A separate report entitled "Celebrity Jeopardy" in honor that great game is available. It provides additional examples.

TAKS and STAAR: A Quick Summary

This treatise has provided significant data and historical information regarding performance and standards in the TAKS and STAAR eras. Metrics for college readiness obtained from both the TEA and the Texas Higher Education Coordinating Board have also been included.

We believe the details and context for that period are appropriately covered for the purpose of this report.

However, we will provide here some more summary data on the TAKS era, including the reference of several reports prepared by Dr. William Howland, a retired math professor and statistician who reviewed student-by-student performance data from Katy ISD and reached critical statistical conclusions.

TAKS Performance For The First & Last Official Administrations

% Achieving Passing Standard

10th Grade	State	Af.A.	Hisp.	White	Asian	Eco. D.	At-Risk
ELA							
2002-2003	70	61	61	79	81	58	NA
2011-2012	91	88	89	95	96	88	83
MATH							
2002-2003	61	44	48	74	85	46	NA
2011-2012	75	63	70	83	92	67	53
SCIENCE							
2002-2003	56	37	39	73	75	37	NA
2011-2012	75	63	69	86	91	66	53
SOCIAL ST.							
2002-2003	80	69	71	90	91	69	NA
2011-2012	94	90	92	97	98	91	87
ALL TESTS							
2002-2003	43	25	28	58	65	25	NA
2011-2012	65	50	58	77	87	54	38

11th Grade	State	Af.A.	Hisp.	White	Asian	Eco. D.	At-Risk
ELA							
2002-2003	70	60	63	75	82	61	NA
2011-2012	93	91	91	97	94	90	87
MATH							
2002-2003	68	53	58	78	88	56	NA
2011-2012	91	84	89	95	96	87	81
SCIENCE							
2002-2003	68	52	56	78	86	54	NA
2011-2012	93	89	91	97	96	90	87
SOCIAL ST.							
2002-2003	90	86	86	94	95	84	NA
2011-2012	98	96	97	99	98	96	95
ALL TESTS							
2002-2003	50	34	39	60	72	36	NA
2011-2012	85	77	82	92	92	79	72

TAKS TEST 2010-11: % Passing

11th Grade Exit Level: Black Students

SUBJECT	Beaumont ISD	Katy ISD
Engl/Lang.	95%	97%
Math	90%	92%
Science	92%	93%
Social Studies	97%	99%
ALL TESTS	85%	88%

TAKS TEST 2010-11: % Passing

11th Grade Exit Level: Hispanic Students

SUBJECT	Beaumont ISD	Katy ISD
Engl/Lang.	91%	98%
Math	91%	95%
Science	94%	95%
Social Studies	98%	99%
ALL TESTS	86%	91%

TAKS TEST 2010-11: % Passing

11th Grade Exit Level: White Students

SUBJECT	Beaumont ISD	Katy ISD
Engl/Lang.	97%	99%
Math	95%	97%
Science	97%	98%
Social Studies	98%	99%
ALL TESTS	94%	95%

TAKS TEST 2010-11: % Passing

11th Grade Exit Level: Asian Students

SUBJECT	Beaumont ISD	Katy ISD
Engl/Lang.	99%	99%
Math	99%	99%
Science	94%	99%
Social Studies	99%	99%
ALL TESTS	94%	98%

Like the TAAS before it, the TAKS worked for the TEA and for Texas. Two tables in particular cut to the chase of a TAKS' repeat of TAAS with a lower academic starting point followed by generally dramatic closure of achievement gaps using the two highest grades levels tested -10th and 11th as examples. The equity gaps that had virtually disappeared in the TAAS era reappeared at first but were drastically reduced by the passing standards established at the beginning of the TAKS era.

The table on the prior page shows statewide results by ethnicity in English Language Arts, Math, Science, Social Studies, and for all tests in the 10th and the 11th grades, tracking the starting point of TAKS in 2003 and the "finish line" for TAKS in 2012.

A portion of that combined table includes a comparison of the constitutional equity performance of Beaumont ISD, a generally low-performing district on most metrics beyond the State's accountability test, with Katy ISD, one of the higher-performing districts in Texas. These data would suggest that, from a constitutional compliance perspective, Beaumont ISD and Katy ISD are/were, from an academic standpoint, "kissing cousins" in equity.

As with TAAS, the disparity between the districts at the beginning were significant but that by the end the miracle of TAAS repeated in TAKS in terms of assertion of constitutional equity.

The reports that we referenced here will be included in a substantial 'library' of full reports, documents, or transcripts that were used in this treatise to evaluate Texas public education accountability including the next ones referenced with these tidbits.

- A series of reports produced by Dr. William Howland, an independent mathematician and statistician, now a retired math professor from St. Thomas University, who focused on evaluating student-by-student performance in reading and math on the TAKS tests in Katy ISD, correlating that performance to a variety of metrics, including classroom grades and PSAT scores. His analysis essentially confirmed that the TAKS was a "harder" test but that, "While doing poorly on the TAKS [in math] quite accurately predicts doing poorly on the PSAT, doing well on the TAKS predicts nothing."
- "Houston At Risk: You Be The Judge," a major report published by the foundation formed in 2014 by now-retired former Houston ISD Superintendent Dr. Billy Reagan, which documents a disturbing look at the State's accountability tests and a wide range of other metrics through performance in the Houston ISD.

Let's quickly summarize STAAR with a previously untold anecdote involving current TEA Commissioner Mike Morath.

During the STAAR era, the TEA absolutely verified that Texas' entire accountability testing system defines closing the academic achievement gap as **INCLUDING** below-grade-level performance in every subject, at every grade, and in every test administered, from TAAS to STAAR.

Before showing Morath's direct answer to a direct question in his appearance before the Texas Association of School Boards (TASB), let's remind

- Did Not Meet: Failed the test and did not perform at a standard of constitutional equity.
- Approaches Grade Level: A student in this range passed the test and achieved constitutional equity performance but was ***performing below grade level***.
- Meet Grade Level: A student in this range achieved genuine grade level.
- Masters Grade Level: A student in this range is in the highest grade-level range.

The very names of these standards form the foundation of whether there exists by the State to seriously pursue a genuine constitutional standard of equity for at-risk, educationally-disadvantaged students of all ethnicities.

Fortunately, I had a chance in 2018, as a member of the Board of Directors of the Texas Association of School Boards, to directly question TEA Commissioner Michael Morath on the TEA's academic definition of constitutional equity. The exchange was not recorded, but any of the dozens of TASB Directors who witnessed the exchange would not dispute that it happened as described here. Importantly, Commissioner Morath answered my question honestly, even if reluctantly.

> Scott: Commissioner, how does the Texas Education Agency define having met its statutory and constitutional burden of closing the academic equity gap: by the STAAR cut score of "approaches" [grade level] or the cut score of "meets" [grade level]?
>
> Morath: Well, I don't want to get into the precise legal issues.... [Scott politely interrupts.]
>
> Scott**:** That is exactly what I want you to do. Let me re-phrase the question: How does the Texas Education Agency define having met its statutory and constitutional burden

> to close the academic equity gap pursuant to Senate Bill 7, passed by the Texas Legislature in 1993, the Supreme Court of Texas decision in January 1995 confirming the constitutionality of Senate Bill 7, and the January 2000 decision by the Federal District Court in San Antonio confirming and referencing the statutory decision of the Texas Legislature? Does the TEA use the cut score of "approaches" or the cut score of "meets"?

Morath**:** The cut score of "approaches."

In a moment of unmitigated honesty, when confronted by someone whom he knew understood the reason for his initial reaction, Morath told the truth in front of witnesses.

The direct answer to that simple but profound question acknowledged that the TEA defines constitutional equity as including below-grade-level performance.

In essence, does that give more or less weight to the concerns expressed in this treatise that:

- The TEA had, in effect, manipulated actual testing to include self-evident, below-grade-level questions that allowed it to assert phony college-readiness standards and closure of the academic equity gap, and to dilute the higher levels of measurement beyond the standards in place for constitutional purposes of equity gap closure enforcement?
- The TEA had, in effect, manipulated passing standards, particularly in the transition from one testing system to another, overtly producing tables that would project the number of students that would "pass" or "fail" or achieve constitutional equity at different cut scores, per the TEA's government-issued, statutory responsibility as the "fox guarding the hen house." Choosing the results of "equity" in such ways is questionable?
- The TEA had, in effect, calculated these academic passing standards by overtly taking statistical note in the standards process of projecting the numbers of students by ethnicity and at-risk/economically-disadvantaged students who would fail to meet the equity standard at different cut scores. Those same tables documented the TEA's assessment of the gross devaluation of the academic integrity of the original TAAS tests, which the TEA had defended as defining equity, grade level and even college readiness?

One may need to read this document twice or three times. The pieces of understanding are here.

However, as we began: Numbers. Damnable numbers. The moral, ethical, statutory, and academic interests of children dominated by children of color need relentless allies to finally step forward; untwist the State's numbers; take the legal or political steps necessary; and place the needs of economically disadvantaged students dominated by children of color over the asserted constitutional power of the State to cheat them.

Documents Available for Download

The following documents, reports, news stories, or transcripts all relate to the Texas accountability testing system. All were reviewed and many referenced including in this report. They are available for download at the website of the Texas Latino School Boards Association.

These include:

- Summary of the Foundations of Equity Principles Related to Texas Constitutional Accountability Testing
- TEA Empowered to Define Academic Equity
- Statutory/Regulatory Citations – 1998
- Specific Excerpts and Full Reports of Supreme Court of Texas and Western Federal District Court
- TEA Commissioner Skip Meno's Report Evaluating Requirements of Senate Bill 7 – 1993
- Copy of Key Excerpts of TEA Commissioner Mike Moses response to Dallas ISD Inquiry and Associate Commissioner Dr. Ann Smisco's Presentation to National Academy of Science Meeting in Irvine, CA.
- Transcript of TEA Associate Commissioner Dr. Ann Smisco's Defense of TAAS Integrity At National Academy of Science Meeting.
- Copy of Full Letter by TEA Commissioner Dr. Mike Moses to Dallas ISD Supt. James Hughey Questioning the Academic Credibility of Certain Aspects of the TAAS Testing Program
- TEA Produced Raw Score Tables Demonstrating Its Standards of Constitutional Equity
- Statistical Data Demonstrating TAAS' "Texas Educational Miracle"
- Aldine ISD Use of TAAS Era Performance Gains To Assert Its Own Dramatic Improvements in Equity
- Dr. Kathleen Coburn's Full Report Citing Documentation of the Below Grade Level Status of TAAS Math
- Dallas ISD's Full Report That Compared TAAS Test Results With Iowa Test of Basic Skills Which Cited Low Correlations Between TAAS Grade Level and Equity and the National Test.
- American Federation of Teachers' Report Which Ridiculed TAAS Math Test Rigor Focusing Upon 8th Grade

- Full Comprehensive Report by California-Based Mathematically Correct Group Evaluating TAAS Math Testing Program
- Extended Excerpts Rand Corporation Research Dr. Stephen Klein Made At National Academy of Science Meeting Which Raised Grave Questions of Academic Credibility on the TAAS Testing Program
- Full Transcript of Dr. Klein's Presentation at That NAS conference
- Rand Corporation's Subsequent Full, Statistically-Based Analysis of the Entire TAAS testing Program Both in Reading and Math That Confirmed Rand's and Dr. Klein's Presentation at the NAS Meeting
- Reports by Mathematically Correct and Certified, Highly Qualified Classroom Teachers' Separate Reports Eviscerating the Academic Credibility of the State's End of Course Algebra I Test
- Report by Certified and Highly Qualified Science Teacher Who Eviscerated the Academic Credibility of the State's End of Course Biology Test
- Copies of 2002-03 through 2004-05 official at the time Academic Excellent Indicator System Reports Which Documented That the TEA Retroactively Re-Stated by Lowering Initially Reported Passing Rates for Certain Grades and Subjects Tested in the Initial Year of TAKS Testing.
- Copy of Official TEA Tables Used To Help Establish the Initial Passing Standards of TAKS Transitioning from TAAS by Explicitly Calculating Projected Failure Rates Inclusive of African-American, Hispanic, and Economically Disadvantaged Students Derived from Field Testing TAKS in the Final Years of TAAS
- Full Copy of "Houston At Risk – You be the Judge; Published May, 2014 During the STAAR Testing Era by Former Houston ISD Superintendent Dr. Billy Reagan's Unlimited Access Educational Systems
- Reports by Dr. William Howland, Retired Math Professor and Statistician, Regarding Correlations Between the TAKS Test and PSAT and Other Metrics on a Student-By-Student Basis in High Performing Katy ISD
- STAAR Test Results for Specific Academic Years Showing Equity Gap Measures Statewide and by Texas Regions, Targeted and

Representative Districts Primarily in End-of-Course English I and II

- 6-Year College Graduation Rates by High School Graduates from Academic Year 2009-10 Reported by Ethnicity and College Entrance Scores. Additional and More Recent Years Will Be Added.
- Professional Reports By Noted Texas Psychometrician and Public-School Administrator Dr. Neal Carl Shaw Explaining Serious Flaws in the TAAS Testing Program Inclusive of Grade-Level Rigor and Criticisms of the Score Reporting Metrics and Procedures Explicitly the Texas Learning Index
- Analytical News Features on the Texas Accountability. and Testing Program Inclusive of Texas-Based Mediums Including The Houston Press and National News Mediums Including the New York Times.