

Elementary and Secondary Education Act of 1965, as amended by the Every Student Succeeds Act, Negotiated Rulemaking Committee

Issue Paper #4a

Issue: Inclusion of students with disabilities in academic assessments

Statutory Cite: 1111(b)(2) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA)

Regulatory Cite: n/a

Background:

Section 1111(b)(2)(B)(xiii) of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA), includes a new requirement that all assessments be developed, to the extent practicable, using principles of universal design for learning (UDL), a scientifically valid framework that supports the learning needs of all students. Section 1111(b)(2)(B)(vii)(II) of the ESEA also requires that appropriate accommodations be provided for students with disabilities identified under the Individuals with Disabilities Education Act (IDEA), as well as those who are provided accommodations under an act other than IDEA. Such accommodations facilitate student access to high-quality assessments in order to measure a student's achievement against challenging State academic content and achievement standards or alternate academic achievement standards for students with the most significant cognitive disabilities.

Section 8101(51) of the ESEA, as amended by the ESSA, defines UDL by saying that the term has the meaning given the term in section 103 of the Higher Education Act of 1965 (20 U.S.C. 1003).

Section 103 of the Higher Education Act defines “Universal design for learning” as follows:

- (24) **UNIVERSAL DESIGN FOR LEARNING.** The term “universal design for learning” means a scientifically valid framework for guiding educational practice that—
- (A) provides flexibility in the ways information is presented, in the ways students respond or demonstrate knowledge and skills, and in the ways students are engaged; and
 - (B) reduces barriers in instruction, provides appropriate accommodations, supports, and challenges, and maintains high achievement expectations for all students, including students with disabilities and students who are limited English proficient.

Discussion Questions:

While these new statutory provisions promote equity for students with disabilities, who have at times not been provided appropriate accommodations or meaningful opportunities to access the same assessments as their peers, they also raise questions with regard to implementation. For example:

- Should the regulations define “students with disabilities” in a way that encompasses students who receive accommodations under the IDEA as well as those receiving accommodations through other Acts?
- How should ED generally ensure that States promote meaningful access to the general curriculum and assessments for all students with disabilities, including through the use of accommodations and principles of UDL?

- How should the regulations address alignment of alternate academic achievement standards with the State's challenging academic content standards?