



UNITED STATES DEPARTMENT OF EDUCATION  
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

MAR 23 2009

The Honorable June St. Clair Atkinson  
State Superintendent  
Public Schools of North Carolina  
6301 Mail Service Center  
Raleigh, North Carolina 27699-6301

Dear Superintendent Atkinson:

I have been asked to respond to your letter of March 2, 2009 on behalf of Secretary Duncan. As the Secretary meets with educators throughout the country, he is urging state and district personnel as well as other stakeholders to share their ideas about the ways in which the Elementary and Secondary Education Act (ESEA) can be improved. These conversations can inform the next reauthorization of the statute. In the meantime, we are committed to advance our reform goals under the authority of the existing statute and regulations, including considerations regarding the assessment of students with disabilities.

In your letter, you requested approval to continue using the results of the Occupational Course of Study (OCS) tests for calculating participation and performance data for adequate yearly progress (AYP). I appreciate North Carolina's intention to strengthen the OCS curriculum and associated assessments and encourage your continued efforts in this area. However, the current OCS tests do not provide an appropriate challenge for high school students with disabilities who are entitled to full participation in the general curriculum despite the need for a test that is based on modified achievement standards. Both the Individuals with Disabilities Act (IDEA) and Title I of the ESEA require the state to provide access to the general curriculum for all students and to implement assessments that are aligned with grade-level content standards, except for a small number of students with the most significant cognitive disabilities. More than 2500 students took the OCS tests in 2007-08. They are entitled to instruction in the same academic content as their classmates under the North Carolina *Standard Course of Studies*.

Your letter expressed concern regarding high schools that might miss AYP participation rate targets if students who take the OCS tests are not included in those calculations. We think that few schools will be adversely impacted for two reasons. First, North Carolina has a well-documented history of full participation in the statewide assessments. The loss of a few students from participation rate calculation is not likely to result in a school's change in AYP status if its participation is otherwise at 97 percent or 98 percent. Second, data on the North Carolina website indicates that this year only twelve schools that have high school grades receive Title I funds and would therefore be subject to consequences for schools identified for improvement, corrective action, or restructuring. Of those, five are currently in improvement and the others appear to have such small enrollments that a separate OCS class is unlikely and thus counting OCS students as non-participants would not affect their AYP status.

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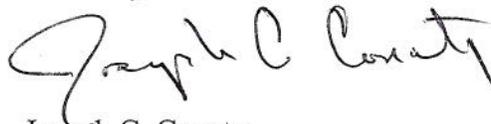
*The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.*

I am confirming the decision set forth in the January 15, 2009 letter from Assistant Secretary Briggs. On the basis of the evidence provided by North Carolina, it is apparent that the NCEXTEND2 Occupational Course of Studies assessments in reading, writing, mathematics and science do not meet most of the regulatory requirements of 34 C.F.R. §§ 200.1 and 200.6. Therefore, North Carolina may no longer include results from those tests in AYP determinations. For the OCS tests administered in 2008-09, North Carolina must either count students taking those tests as non-participants or offer the students the opportunity to take the EOC English I and writing, EOC Algebra I and EOC Biology tests, count them as participants and include their test results on those assessments in determining AYP.

North Carolina has implemented alternate assessments based on modified academic achievement standards (AA-MAAS) in grades 3 through 8, and it seems apparent from the documents submitted for peer review, that North Carolina understands the need for alignment of an AA-MAAS with grade-level content standards. The students who take the NCEXTEND2 in those grades will enter high school prepared to address much more rigorous expectations than are currently represented in the OCS tests.

I am confident that North Carolina will continue to advance its efforts to hold schools and districts accountable for the achievement of all students. If you need any additional assistance to implement the assessment provisions of NCLB, please do not hesitate to contact Sue Rigney (Sue.Rigney@ed.gov) on my staff.

Sincerely,

A handwritten signature in black ink that reads "Joseph C. Conaty". The signature is written in a cursive style with a large initial "J".

Joseph C. Conaty

Delegated Authority to Perform the Functions and  
Duties of the Assistant Secretary for Elementary  
and Secondary Education

Cc: Lou Fabrizio