



UNITED STATES DEPARTMENT OF EDUCATION

TO: State Assessment Directors
State Title I Directors

FROM: Patrick Rooney
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Office of Elementary and Secondary Education

DATE: May 15, 2017

SUBJECT: Information about locally selected, nationally recognized high school assessments

This memorandum provides information to States about the implementation of a new provision in Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the Every Student Succeeds Act (ESSA)^[1], regarding the provisions in section 1111(b)(2)(H) authorizing locally selected, nationally recognized high school academic assessments. On December 8, 2016, the U.S. Department of Education (the Department) published final regulations implementing this new provision.^[2] These provisions take effect beginning in the 2017–2018 school year.

A. Definition of a Nationally Recognized High School Academic Assessment

ESEA section 1111(h) provides the flexibility for a State to permit a local educational agency (LEA) to administer a nationally recognized high school assessment, provided it meets certain requirements, in place of the State’s high school assessment. Under 34 CFR 200.3(d), a “nationally recognized high school assessment” is a “an assessment of high school students’ knowledge and skills that is administered in multiple States and is recognized by institutions of higher education in those or other States for the purposes of entrance or placement into courses in postsecondary education or training programs.”

B. Requirements for State Approval of Locally Selected, Nationally Recognized High School Academic Assessments

ESEA section 1111(b)(2)(H) and 34 CFR 200.3 also outline the State’s requirements before it may permit an LEA to select a nationally recognized high school academic assessment in each required subject (reading/language arts, mathematics, or science) in lieu of the respective Statewide test. In accordance with section 200.3(a), a State has discretion as to whether it will offer its LEAs this

^[1] See www2.ed.gov/documents/essa-act-of-1965.pdf

^[2] These regulations took effect on January 9, 2017.

flexibility. States that wish to permit an LEA this flexibility must first establish and use technical criteria^[3] to determine if the nationally recognized high school assessment:

- Is aligned with the challenging State academic standards;
- Addresses the depth and breadth of those standards;
- Is equivalent to or more rigorous than the statewide assessment it is replacing in terms of the following:
 - The coverage of academic content;
 - The difficulty of the assessment;
 - The overall quality of the assessment; and
 - Any other aspects of the assessment that the State may establish in its technical criteria;
- Meets all general requirements for State assessments under section 200.2(b) of the final regulations and those involving test administration (section 200.5(a)) and inclusion (section 200.6); and
- Produces valid and reliable data on student academic achievement with respect to all high school students and each subgroup of high school students in the LEA that:
 - Are comparable to student academic achievement data for all high school students and each subgroup of high school students produced by the Statewide assessment at each academic achievement level;
 - Are expressed in terms consistent with the State's academic achievement standards; and
 - Provide unbiased, rational, and consistent differentiation among schools within the State for the purpose of the State-determined accountability system, including calculating the Academic Achievement indicator under section 1111(c)(4)(B)(i) of the Act and annually meaningfully differentiating between schools.^[4]

Before a State may approve a nationally recognized high school academic assessment for use by an LEA, the State must also:

- Ensure that the use of appropriate accommodations by a student with disabilities or an English learner does not deny the opportunity of any student to participate in the assessment or deny any of the benefits from participation in the assessment that are afforded to students without disabilities or who are not English learners^[5]; and
- Submit evidence to the Department that demonstrates that each locally selected, nationally recognized assessment meets the requirements of the Department's State assessment peer review guidance.^[6]

A State should also be prepared to monitor the LEA parental notification requirements for each LEA that applies for this assessment flexibility (outlined in section C below). A State may: 1) approve an LEA's request to use a nationally recognized high school academic assessment that meets the requirements of the statute and regulations; 2) disapprove an LEA's request if it does not meet those requirements; or 3) revoke approval for good cause.^[7]

^[3] 34 CFR 200.3 (b) (1)

^[4] 34 CFR 200.3(b)(1)(v)

^[5] 34 CFR 200.3(b)(2)(i)

^[6] 34 CFR 200.3(b)(2)(ii).

^[7] 34 CFR 200.3(b)(3)

C. Requirements for LEAs Requesting to Use Locally Selected, National Recognized High School Assessments

Once a State has met the requirements in the statute and regulations for permitting a particular nationally recognized high school assessment in lieu of the State's high school assessment, any LEA may select to administer that nationally recognized high school assessment. An LEA may only select one nationally recognized high school assessment⁸ and that assessment needs to be administered to all high school students (i.e., the LEA may not use more than one nationally recognized assessment, nor may it have some students take the nationally recognized assessment and some take the State assessment), except for the small number of students with the most significant cognitive disabilities who take the State's alternate assessment aligned with alternate academic achievement standards. The statute and regulations also establish certain requirements for LEAs that wish to utilize this flexibility. Before an LEA requests approval from the State to use a locally selected, nationally recognized high school academic assessment, the LEA must:

- Notify all parents of high school students it serves--
 - That the LEA intends to request approval from the State to use a locally selected, nationally recognized high school academic assessment in place of the statewide academic assessment used to meet Federal requirements;
 - How parents and, as appropriate, students, may provide meaningful input regarding the LEA's request; and
 - Of any effect of such request on the instructional program in the LEA; and
- Provide an opportunity for meaningful consultation to all public charter schools whose students would be included in such assessments.

In addition, LEAs requesting approval to use a locally selected, nationally recognized high school academic assessment must¹⁸:

- Update their LEA plan under section 1112 or section 8305 of the Act, including to describe how the request was developed consistent with all requirements for consultation under sections 1112 and 8538 of the Act; and
- If the LEA is a charter school under State law, provide an assurance that the use of the assessment is consistent with State charter school law and it has consulted with the authorized public chartering agency.

An LEA that receives State approval to use a locally selected, nationally recognized test must notify all parents of high school students it serves that it will use such locally selected, nationally recognized high school academic assessment instead of the Statewide academic assessment. In each subsequent year following approval in which the LEA elects to administer a locally selected, nationally recognized high school academic assessment, the LEA must notify both the State educational agency and parents within the LEA as follows¹⁹:

- The State must be notified of the LEA's intention to continue administering such assessment; and

⁸ 34 CFR 200.3(c)(1)

¹⁸ 34 CFR 200.3(c)(2)

¹⁹ 34 CFR 200.3(c)(3)

- Parents must be notified of which assessment the LEA will administer to students in order to meet the Federal requirements at the beginning of the school year, and provide that notification in an accessible format for parents who are individuals with a disability as defined by the Americans with Disabilities Act (ADA), as amended, if such accessible formats are requested.

An LEA that chooses to request this flexibility should document all notification and consultation activities that are listed above.

D. Procedures for Submitting Evidence to the Department

States that choose to permit LEAs to use locally selected, nationally recognized high school assessments should carefully review all State and LEA requirements presented in the previous two sections (B and C).

The State must establish the criteria and undertake its review of the nationally recognized high school assessment before it may offer the opportunity for an LEA to select that assessment. This includes conducting a review that includes the above criteria in section B. Prior to any LEA use of nationally recognized assessments in lieu of Statewide assessments, States must submit evidence to the Department demonstrating that any such assessment meets the peer review requirements under section 1111(a)(4) of the ESEA and receive feedback that the nationally recognized assessment meets or substantially meets the requirements in the statute and regulations. For more information about the Department's assessment peer review, please see the letter^[10] sent to chief State school officers on October 6, 2016. The Department will update the *Assessment Peer Review Guidance*^[11] in the near future to reflect the requirements for locally selected, nationally recognized high school tests outlined in this letter.

A complete submission for each locally selected, nationally recognized high school academic assessment should include the following:

- Evidence of an assurance that the selection criteria and process used by the State that addresses all the requirements found in 34 CFR 200.3(b) and outlined in section B of this letter.
- Evidence that of an assurance that the State has monitored that each LEA that requests the use of locally selected, nationally recognized high school tests in lieu of the State assessment has met all of the requirements found in 34 CFR 200.3(c) of the assessment regulations and outlined in section C of this letter.
- A complete submission of evidence for the nationally recognized high school test in accordance with the current assessment peer review guidance.

The Department recognizes that we may have conducted a peer review of a nationally recognized high school test prior to a State selecting that test for this flexibility. In such a case, a State may be able to leverage the prior peer review for submission of the nationally recognized high school test. However, a prior peer review of a particular nationally recognized assessment that resulted in a determination that such assessment met or substantially met peer review requirements relative to a State's challenging academic standards may not mean that assessment would meet the requirements for

^[10] See www2.ed.gov/admins/lead/account/saa/dcletterassepeerreview1072016ltr.pdf

^[11] See www2.ed.gov/policy/elsec/guid/assessguid15.pdf

another State. For example, if two States have different challenging academic standards, a single assessment may not adequately address both sets of standards.

We encourage you, if you are interested in pursuing permitting LEAs to select a nationally recognized high school academic assessment, to contact the Office of State Support at: [OSS.\[State\]@ed.gov](mailto:OSS.[State]@ed.gov) (e.g., OSS.Nebraska@ed.gov) to discuss your plan and to plan for the Department's peer review.

Thank you for your continued commitment to improving educational outcomes for all students.