

§200.2. State responsibilities for assessment.

(a)(1) Each State, in consultation with its LEAs, must implement a system of high-quality, yearly student academic assessments that includes, at a minimum, academic assessments in mathematics, reading/language arts and, ~~beginning in the 2007-08 school year,~~ science.

(2)(i) The State may also measure the achievement of students in other academic subjects in which the State has adopted challenging State academic ~~content and student academic achievement~~ standards.

(ii) If a State has developed assessments in other subjects for all students, the State must include students participating under subpart A of this part in those assessments.

(b) The assessments s ~~system~~ required under this section must ~~meet the following requirements:~~

~~(1) Be~~ (i) Except as provided in §200.6(c) and sections 1111(b)(2)(C), 1111(b)(2)(H), and 1204 of the Act, be the same ~~assessment system~~ assessments used to measure the achievement of all students ~~in accordance with;~~ and

(ii) Be administered to all students consistent with §200.53 ~~or §200.4.~~ ;

(2)(i) Be designed to be valid and accessible for use by ~~the widest possible range of~~ all students, including students with

disabilities and ~~students with limited English proficiency~~
learners; and

(ii) Be developed, to the extent practicable, using the principles of universal design for learning. Under this section, the term "universal design" 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 English learners;

(3)(i) Be aligned with the ~~State's~~ challenging State academic ~~content and student academic achievement~~ standards. Specifically, each assessment in a State's system of assessments under this section must--

(A)(1) Be aligned to the challenging State academic content standards; and

(2) Address the depth and breadth of those standards; and

(B)(1) Measure student performance based on challenging State academic achievement standards that are aligned with entrance requirements for credit-bearing coursework in the system of public higher education in the State and relevant

State career and technical education standards consistent with section 1111(b)(1)(D) of the Act; or

(2) With respect to alternate assessments for students with the most significant cognitive disabilities, measure student performance based on alternate academic achievement standards defined by the State consistent with section 1111(b)(1)(E) of the Act to ensure that a student who meets the alternate academic achievement standards is on track to pursue postsecondary education or employment, consistent with the purposes of Public Law 93-112, as in effect on July 22, 2014;

and

(ii) Provide coherent and timely information about student attainment of those standards. ~~— and whether a student is performing at the grade level in which the student is enrolled;~~

(4)(i) Be valid and reliable for the purposes for which the assessment system is used; and

(ii) Be consistent with relevant, nationally recognized professional and technical testing standards; ~~—~~

(5) Be supported by evidence ~~(which the Secretary will provide, upon request, consistent with applicable federal laws governing the disclosure of information) from test publishers or other relevant sources that --~~

(i) ~~†~~The assessment system is ~~—~~

~~(i)~~ of of adequate technical quality ~~for --~~

(A) For each purpose required under the Act; and

(Bii) Consistent with the requirements of this section; and

(ii) Is made available to the public, including on the State's website;-

(6) Be administered in accordance with the timelinefrequency described in §200.5;

(7) Involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding of challenging content, as defined by the State. These measures may ~~include--~~

~~(i) Single or multiple question formats that range in cognitive complexity within a single assessment; and~~

~~(ii) Multiple assessments within a subject area.~~ (i) Include measures of student academic growth; and

(ii) Be partially delivered in the form of portfolios, projects, or extended performance tasks;

(8) Objectively measure academic achievement, knowledge, and skills without evaluating or assessing personal or family beliefs and attitudes, except that this provision does not preclude the use of items--

(i) Such as constructed-response, short answer, or essay questions; or

(ii) That require a student to analyze a passage of text or to express opinions i;-

(9) Provide for participation in the assessment ~~s system~~ of all students in the grades ~~being~~ assessed consistent with §§200.5 and 200.6; ~~;~~

(10) ~~Except as provided in §200.7~~ At the State's discretion, be administered through--

(i) A single summative assessment; or

(ii) Multiple statewide interim assessments during the course of the academic year that result in a single summative score that provides valid, reliable, and transparent information on student achievement and, at the State's discretion, student growth, consistent with paragraph (b)(4)(ii) of this section;

(11) Consistent with section 1111(b)(2)(B)(xi) of the Act, enable results to be disaggregated within each State, LEA, and school by--

(i) Gender;

(ii) Each major racial and ethnic group;

(iii) English proficiency status;

(iv) Migrant status as defined in ~~Titl~~title I, part C of the ~~Elementary and Secondary Education Act~~ ~~(hereinafter "the Act")~~;);

(v) ~~Students~~Children with disabilities as defined under section 602(3) of the Individuals with Disabilities Education Act (IDEA) as compared to all other students; ~~and~~

(vi) Economically disadvantaged students as compared to students who are not economically disadvantaged~~—~~;

~~(vii)~~ Homeless status, as defined in section 752(2) of title VII, subtitle B of the McKinney-Vento Act, as amended;

(viii) Status as a child in foster care; and

(ix) Status as a student with a parent who is a member of the Armed Forces, as defined in section 101(a)(4) of title 10, United States Code, on active duty as defined in section 101(d)(5) of such title;

(12) Produce individual student reports consistent with §200.8(a); and

~~(12)~~ 13 Enable itemized score analyses to be produced and reported to LEAs and schools consistent with §200.8(b).

(c)(1) At its discretion, a State may administer the assessments required under this section in the form of computer-adaptive assessments if such assessments meet all requirements of section 1111(b)(2)(J) of the Act.

(2) A computer-adaptive assessment --

(i) Must measure a student's academic proficiency based on the challenging State academic standards for the grade in which the student is enrolled and growth toward those standards; and

(ii) May measure a student's academic proficiency and growth using items above or below the student's grade level, provided

that the assessment meets all requirements of section 1111(b)(2) of the Act.

(3) For students with the most significant cognitive disabilities assessed using a computer-adaptive alternate assessment aligned to alternate academic achievement standards (AA-AAAS) under section 1111(b)(2)(D) of the Act or English learners assessed using a computer-adaptive English language proficiency assessment under section 1111(b)(2)(G) of the Act, data regarding student academic achievement or English proficiency must be reported in the same manner that such data otherwise would be reported for assessments that are not computer-adaptive.

~~—(c) The State assessment system may include academic assessments that do not meet the requirements in paragraph (b) of this section as additional measures. Those additional assessments—~~

~~(1) May not reduce the number, or change the identity, of schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 of Title I of the Act, if those assessments were not used; but~~

~~(2) May identify additional schools for school improvement, corrective action, or restructuring.~~

(Authority: 20 U.S.C. 1003(24), 6311(b)(3)-2), and 42 U.S.C. 11434a)

§200.5. ~~Timeline for a~~Assessment administrations.

(a) Reading/language arts and mathematics.

~~(1) Through the 2004-2005 school year, a State must administer the assessments required under §200.2 at least once during--~~

~~(i) Grades 3 through 5;~~

~~(ii) Grades 6 through 9; and~~

~~(iii) Grades 10 through 12.~~

~~(2) Except as provided in paragraph (a)(3) of this section, beginning no later than the 2005-2006 school year, a A State must administer both the reading/language arts and mathematics assessments required under §200.2--~~

(1) In each of grades 3 through 8; and

(2) At least once in grades 9~~10~~ through 12.

~~(3) The Secretary may extend, for one additional year, the timeline in paragraph (a)(2) of this section if a State demonstrates that--~~

~~(i) Full implementation is not possible due to exceptional or uncontrollable circumstances such as--~~

~~(A) A natural disaster; or~~

~~(B) A precipitous and unforeseen decline in the financial resources of the State; and~~

~~(ii) The State can complete implementation within the additional one-year period.~~

(b) Science. ~~Beginning no later than the 2007-2008 school year, A State must administer t~~he science assessments required under §200.2 at least once during--

- (1) Grades 3 through 5;
- (2) Grades 6 through 9; and
- (3) Grades 10 through 12.

~~(c) Timing of results. Beginning with the 2002-2003 school year, a State must promptly provide the results of its assessments no later than before the beginning of the next school year to LEAs, schools, and teachers in a manner that is clear and easy to understand~~(Authority: 20 U.S.C. 6311(b)(~~23~~)(v))

§200.6. Inclusion of all students.

A State's academic assessment system required under §200.2 must provide for the participation of all students in the grades assessed under §200.5 in accordance with this section.

(a) ~~Students~~Appropriate accommodations for students eligible under IDEA and ~~Section 504~~other acts. (1) Appropriate

~~accommodations.~~ ~~(i)~~ A State's academic assessment system must provide, for each student with a disability, as defined under section 602(3) of the IDEA, the appropriate accommodations that ~~the student's IEP team determines~~ are necessary to measure the academic achievement of the student relative to the

~~State's~~challenging State academic content standards and aligned academic achievement standards for the grade in which the student is enrolled, such as interoperability with assistive technology devices, consistent with ~~§200.1~~section 1111(b)(1), ~~(b)(3), and (c); and~~1) of the Act, as determined by--

(i) For each child with a disability, as defined by section 602(3) of the Individuals with Disabilities Education Act (IDEA), the student's individualized education program (IEP) team; or

(ii) For each student with a disability covered under acts other than the IDEA, including section 504 of the Rehabilitation Act of 1973, as amended (Section 504), appropriate accommodations that the student's placement team ~~determines are~~

~~necessary to measure the academic achievement of the student relative to the State's academic content and academic achievement standards for the grade in which the student is enrolled, consistent with §200.1(b)(2), (b)(3), and (c).~~

(~~ii~~2) A State must, as part of its guidelines for IEP teams under paragraph (b) of this section--

(Ai) Develop, disseminate information on, and promote the use of appropriate accommodations to increase the number of students with the most significant cognitive disabilities who participate in academic instruction and assessments for the grade in which each student is enrolled, including that the student is ~~are~~ tested against academic achievement standards for the grade in which the student is enrolled; and

(Bii) Ensure that ~~regular~~general and special education teachers and other appropriate staff know how to administer assessments, including ~~making~~alternate assessments, and know how to make appropriate use of accommodations, during assessment for all students with disabilities ~~and students covered under Section 504.~~

[NOTE FROM ED FOR MEMBERS OF THE NEGOTIATED RULEMAKING COMMITTEE: The section below incorporates elements from prior regulations found in §200.1(f) because those requirements relate primarily to assessment and because the updated statute incorporated many of these topics in 1111(b)(2).]

(b) State guidelines. If a State defines alternate academic achievement standards for students with the most significant cognitive disabilities and administers an AA-AAAS, a State must-

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(1) Establish and monitor implementation of clear and appropriate guidelines for IEP teams to apply in determining, on a case-by-case basis, which students with the most significant cognitive disabilities will be assessed based on alternate academic achievement standards;

(2) Provide to IEP teams a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on alternate academic achievement standards, including any effects of State and local policies on a student's education resulting from taking an AA-AAAS, such as how participation in such assessments may affect the student's ability--

(i) To complete the requirements for a regular high school diploma; and

(ii) To complete such requirements on time;

(3) Ensure that parents of students selected to be assessed using an AA-AAAS under the State's guidelines in this paragraph are informed that their child's achievement will be measured based on alternate academic achievement standards, and how

participation in such assessments may affect their child's ability--

(i) To complete the requirements for a regular high school diploma; and

(ii) To complete such requirements on time;

(4) Not preclude a student with the most significant cognitive disabilities who takes an AA-AAAS from attempting to complete the requirements for a regular high school diploma;

(5) Promote, consistent with requirements under the IDEA, the involvement and progress of students with the most significant cognitive disabilities in the general education curriculum;

(6) Ensure that it identifies in its State plan--

(i) The steps it has taken to incorporate universal design for learning, to the extent feasible, in any alternate assessments that the State administers; and

(ii) How general and special education teachers and other appropriate staff receive training on administering the alternate assessments and make appropriate use of accommodations for students with disabilities on all assessments included in the State's system of student academic assessments; and

(7) Develop, disseminate information on, and promote the use of appropriate accommodations consistent with paragraph (a) of

this section to increase the number of students with the most significant cognitive disabilities who--

(i) Participate in academic instruction and assessments for the grade level in which the student is enrolled; and

(ii) Are tested based on challenging State academic standards for the grade level in which the student is enrolled.

(c) Alternate assessments. ~~(1)~~ The State's academic assessment system, developed consistent with §200.2, must provide for one or more alternate assessments in reading/language arts, mathematics, and science for a child with a disability, as defined under section 602(3) of the IDEA, whom the child's IEP team determines cannot participate in all or part of the State assessments under paragraph (a)(1) of this section, even with appropriate accommodations, provided such alternate assessments--

(i) Are aligned with the challenging State academic content standards under section 1111(b)(1) of the Act; and

~~(ii)(A) Alternate assessments must yield~~ Yield results for the grade in which the student is enrolled ~~in at least reading/language arts, mathematics, and, beginning in the 2007-2008 school year, science,~~ except as provided in the following paragraph.

(B2) For students with the most significant cognitive disabilities, alternate assessments ~~may yield~~ must--

(i) Be aligned with the challenging State academic content standards under section 1111(b)(1) of the Act; and

(ii) Yield results that measure the achievement of those students relative to the alternate academic achievement standards the State has defined under ~~§200.1(d)~~ section 1111(b)(1)(E) of the Act.

~~(iii) If a State permits the use of (3) For each subject for which assessments are administered under §200.2(a)(1), the total number of students assessed in that subject using an alternate assessments that yield results based on alternate academic achievement standards, AA-AAAS under paragraph (c)(2) of this section may not exceed 1.0 percent of the total number of students in the State who are assessed in that subject.~~

(4) The State must document that ---

(i) Not prohibit an LEA from assessing more than 1.0 percent of its assessed students in a given subject with an AA-AAAS;

(ii) Review information justifying the need of an LEA to assess more than 1.0 percent of its assessed students with an AA-AAAS students with the most significant cognitive disabilities are, to; and

(iii) Provide appropriate oversight, as determined by the State based on its review of information under paragraph (c)(4)(ii) of this section, of an LEA that does not provide sufficient justification.

(5) If a State does not meet the requirement under paragraph (c)(3) of this section with respect to any subject for which assessments are administered under §200.2(a)(1) in any school year, the State may request that the Secretary waive the cap for the relevant subject, pursuant to section 8401 of the Act.

~~the extent possible, included in the general curriculum.~~

(d) Reporting. A State must report separately to the Secretary, under section 1111(h)(45) of the Act, the number and percentage of ~~students~~children with disabilities taking--

(i) Regular assessments described in §200.2;

(ii) Regular assessments with accommodations;

(iii) Alternate assessments ~~based on~~aligned with the grade-level academic achievement standards described in ~~§200.1~~section 1111(b)(1)(~~e~~)(D) of the Act; and

(iv) Alternate assessments ~~based on modified academic achievement standards in school years prior to 2015-2016; and~~

~~(v) Alternate assessments based on~~aligned with the alternate academic achievement standards described in ~~§200.1~~section 1111(b)(1)(E) of the Act.

~~(e).~~

~~(b) Limited) English proficient students learners.~~ A State must include ~~limited~~ English proficient students learners in its academic assessment system as follows:

(1) In general. (i) Consistent with §200.2 and paragraphs ~~(be)~~(2) and ~~(be)~~(4) of this section, the State must assess ~~limited~~ English ~~proficient students~~learners in a valid and reliable manner that includes--

(A) Reasonable accommodations; and

(B) To the extent practicable, assessments in the language and form most likely to yield accurate and reliable information on what those students know and can do to determine the students' mastery of skills in subjects other than English until the students have achieved English language proficiency.

(ii) In its State plan, the State must--

(A) Identify the languages other than English that are present to a significant extent in the participating student population ~~served by the SEA; and~~

(B) Identify any existing assessments in native languages, and specify for which grades and content areas those assessments are available;

(BC) Indicate the languages other than English that are present to a significant extent in the participating student population for which yearly student academic assessments are not available and are needed; and

(DA) Must make every effort to develop such native language assessments, at a minimum, for languages that are present to a significant extent in the participating student population.

~~(iiiB)~~ The A State May request assistance from the Secretary in identifying linguistically accessible academic assessments that are needed.

~~—(2)~~ Assessing reading/language arts in English. (i) ~~Unless an extension of time is warranted under paragraph (b)(2)(ii) of this section, a~~ State must assess, using assessments written in English, the achievement of ~~any limited English proficient student~~ an English learner in meeting the State's reading/language arts academic standards if the student has attended schools in the United States, excluding Puerto Rico, for three or more consecutive years.

~~—(ii)~~ An LEA may continue, for no more than two additional consecutive years, to assess a ~~limited student who is an English proficient student learner~~ student who is an English learner under paragraph ~~(b)(1e)(2)(i)~~ of this section if the LEA determines, on a case-by-case individual basis, that the student has not reached a level of English language proficiency sufficient to yield valid and reliable information on what the student knows and can do on reading/language arts assessments written in English.

~~(iiii)~~ The requirements in paragraph ~~(be)~~(2)(i) and (ii) of this section do not permit an exemption from participating in the State assessment system for ~~limited English proficient students~~ learners.

(3) Assessing English proficiency. ~~+(i) Unless a State receives an extension under paragraph (b)(3)(ii) of this section, the~~ A State must require each LEA, ~~beginning no later than the 2002-2003 school year,~~ to assess annually the English proficiency, including reading, writing, speaking, and listening skills, of all students with limited English proficiency in schools in the LEA.

(ii) The ~~Secretary may extend, for one additional year, the deadline in~~ assessment under paragraph ~~(b)~~ (3)(i) of this section ~~if~~ must be aligned with the State's English language proficiency standards required under section 1111(b)(1)(F) of the Act.

~~(iii) If a State develops a computer-adaptive assessment to measure English language proficiency, the State demonstrates~~ must ensure that ~~the computer-adaptive assessment meets all requirements of section 1111(b)(2)(J)(ii)(II) of the Act.~~

~~(A) Full implementation is not possible due to exceptional or uncontrollable circumstances such as~~

~~(1) A natural disaster; or~~

~~(2) A precipitous and unforeseen decline in the financial resources of the State; and~~

~~(B) The State can complete implementation within the additional one-year period.~~

(4) Recently arrived limited-English proficient students/learners. (i)(A) A State may exempt a recently arrived

~~limited~~ English ~~proficient student learner~~, as defined in paragraph (b)(54)(iv) of this section, from one administration of the State's reading/language arts assessment under §200.2.

(B) If the State does not assess a recently arrived ~~limited~~ English ~~proficient student learner~~ on the State's reading/language arts assessment, the State must count the year in which the assessment would have been administered as the first of the three years in which the student may take the State's reading/language arts assessment in a native language ~~under consistent with paragraph (e)(2)(i) of this section 1111(b)(3)(C)(x) of the Act.~~

(C) The State and its LEAs must report on State and ~~district local~~ report cards ~~required~~ under section 1111(h) of the Act the number of recently arrived ~~limited~~ English ~~proficient students learners~~ who are not assessed on the State's reading/language arts assessment.

(D) Nothing in paragraph (b)(4) of this section relieves an LEA from its responsibility under applicable law to provide recently arrived ~~limited~~ English ~~proficient students learners~~ with appropriate instruction to ~~assistenable~~ them ~~in gaining to attain~~ English language proficiency as well as ~~grade-level content knowledge in reading/language arts and, mathematics, and science.~~

(ii) A State must assess the English language proficiency of a recently arrived ~~limited~~-English ~~proficient~~ student learner pursuant to paragraph ~~(b)~~e(3) of this section.

(iii) A State must assess the mathematics and science achievement of a recently arrived ~~limited~~-English ~~proficient~~ student learner pursuant to §200.2- ~~with the frequency described~~ in §200.5.

~~(5iv)~~ Definitions related to English learners.

(i) A “recently arrived ~~limited~~-English ~~proficient~~ student learner” is ~~a student with limited~~ an English ~~proficiency~~ learner who has ~~attended~~ been enrolled in schools in the United States for less than twelve months.

(ii) The phrase “schools in the United States” includes only schools in the 50 States and the District of Columbia.

(f) Migratory and other mobile students. A State must include migratory students, as defined in title I, part C, of the Act, and other mobile students in its academic assessment system, even if those students are not included for accountability purposes under section 1111(c)(4)(F) of the Act.

(g) Students experiencing homelessness. (1) A State must include homeless students, as defined in section 725(2) of title VII, subtitle B of the McKinney-Vento Act, in its academic

assessment, reporting, and accountability systems, consistent with section 1111(c)(4)(F) of the Act.

~~(2) The State is not required to disaggregate, as a separate category under §200.2(b)(10), the assessment results of the students referred to in paragraph (d)(1) of this section.~~

~~(Authority: 20 U.S.C. 6311(b)(3))~~

~~(Authority: 20 U.S.C. 6311(b)(2), IDEA)~~