



## Part B Data Notes

### 2008-09 Reporting Year and Fall 2009

This document provides information, or data notes, on the ways in which states collected and reported data differently from the Office of Special Education Programs (OSEP) data formats and instructions. In addition, the data notes provide explanations of substantial changes or other changes that data users may find notable or of interest in the data from the previous year.

#### 2009 Child Count

##### American Samoa

American Samoa allows children ages 3 through 5 to be classified in the following disabilities: hearing impairments, emotional disturbance, orthopedic impairments, other health impairments, traumatic brain injury, deaf/blindness, and developmental delay. For the 2008 child count, American Samoa had zero children to report in these categories.

American Samoa classifies students ages 6 through 21 in the following disabilities: emotional disturbance, orthopedic impairments, other health impairments, and traumatic brain injury. For the 2008 child count, American Samoa had zero students to report in these categories.

##### Arkansas

In Arkansas, the developmental delay disability category does not apply to children ages 6 and older.

Arkansas does not use the mental retardation, emotional disabilities, or specific learning disabilities categories for preschool students (3 to 5 years of age). These categories are available for K-12 and therefore are found only in the 5-year-old preschool data, which represents the kindergarten students who were rolled back to the preschool count.

##### Bureau of Indian Education

The BIE does not serve 3-year-old students. Per 25 CFR, a child must be age 5 by December 31st of a given school year to be enrolled.

##### California

California does not use the developmental delay category when identifying disability status for children with disabilities ages 3 to 21 for purposes of reporting under IDEA.

##### Colorado

Colorado law defines the category of physical disabilities, but it is not broken into orthopedically impaired and other health impairments. All children with physical disabilities were reported under the category orthopedically impaired.

## Connecticut

In Connecticut, the developmental delay disability category does not apply to children ages 6 and older.

## Delaware

Delaware does not offer services beyond age 21. Delaware does not use the disability category multiple disabilities.

## District of Columbia

During state-level validation activities related to child count, the OSSE found that some LEAs were abiding by federal guidelines for the determination of developmental delay but were not making decisions consistent with state regulations. However, the OSSE acknowledges that state regulations regarding the criteria (namely age limits) for the use of developmental delay have not been entirely clear. The state confirmed that the students were receiving services, and the IEP team is working to hold reevaluation meetings to update their eligibility. The OSSE is taking several steps to correct this issue: (1) the OSSE is in the process of finalizing state-level policy that clarifies the requirements of all disabilities, including developmental delay; (2) the state-level training and technical assistance team will provide follow-up sessions for LEAs to clarify the use of disability criteria in the determination of eligibilities; (3) the OSSE will use state-level monitoring activities in order to address areas of identified noncompliance.

## Georgia

The multiple disabilities category does not apply for state of Georgia.

## Indiana

Indiana does not permit incarceration of children ages 12 and younger.

## Iowa

In Iowa, the developmental delay disability category does not apply to children ages 3 and older.

## Nevada

In Nevada, the developmental delay disability category does not apply to children ages 6 and older.

## New Jersey

The developmental delay disability category does not apply to children ages 6 and older.

## New York

New York State reports all its preschool children with disabilities who are either 3 or 4 years of age on the child count date under the developmental disability category. The definition of a preschool child with a disability in the state's regulations is as follows:

Preschool student with a disability is a preschool child as defined in section 4410(1)(i) of Education Law who is eligible to receive preschool programs and services, is not entitled to attend the public schools of the school district of residence pursuant to section 3202 of the Education Law and who, because of mental, physical, or emotional reasons, has been identified as having a disability and can receive

appropriate educational opportunities from special programs and services approved by the department. Eligibility as a preschool student with a disability shall be based on the results of an individual evaluation which is provided in the student's native language, not dependent on a single procedure, and administered by a multidisciplinary team in accordance with all other requirements as described in section 200.4 (b) (1) through (5) of this Part.

(1) Commencing July 1, 1993, to be identified as having a disability a preschool student shall either:

(i) exhibit a significant delay or disorder in one or more functional areas related to cognitive, language and communicative, adaptive, socio-emotional or motor development which adversely affects the student's ability to learn. Such delay or disorder shall be documented by the results of the individual evaluation which includes but is not limited to information in all functional areas obtained from a structured observation of a student's performance and behavior, a parental interview and other individually administered assessment procedures, and, when reviewed in combination and compared to accepted milestones for child development, indicate:

(a) a 12-month delay in one or more functional area(s); or

(b) a 33 percent delay in one functional area, or a 25 percent delay in each of two functional areas; or

(c) if appropriate standardized instruments are individually administered in the evaluation process, a score of 2.0 standard deviations below the mean in one functional area, or a score of 1.5 standard deviations below the mean in each of two functional areas; or

(ii) meet the criteria set forth in paragraphs (1), (2), (3), (5), (9), (10), (12) or (13) of subdivision (zz) of this section.

(2) Commencing July 1, 1991, in the calendar year in which such preschool student becomes three years of age, a student shall be first eligible for preschool programs and services on January 2nd of such calendar year, if the student's birthday falls before July 1st, otherwise a student shall be first eligible on July 1st of the calendar year; except that a student who, as of his or her third birthday, is already receiving services pursuant to section 236 of the Family Court Act or its successor, or section 4204-a of the Education Law, may, if the parent so chooses, continue to receive such services through August 31st of the calendar year in which the student first becomes eligible to receive services pursuant to section 4410 of the Education Law. A student shall be deemed to be a preschool student with a disability through the month of August of the school year in which the student first becomes eligible to attend school pursuant to section 3202 of the Education Law.”

### Ohio

The developmental delay disability category does not apply to children ages 6 years and older.

### Oregon

In Oregon, the developmental delay disability category does not apply to children ages 6 and older. Additionally, the state does not use the multiple disabilities category.

### Pennsylvania

In Pennsylvania, there may be instances where a 6-year-old child remains in a preschool program for an additional year, thus allowing for the use of developmental delay as a disability category. Otherwise, the developmental delay disability category does not apply to children ages 6 and older.

### South Dakota

The developmental delay disability category does not apply to children ages 6 years and older.

### Tennessee

Students older than 21 are not included in alignment with EDEN file requirements.

### Texas

The developmental delay disability category does not apply to children ages 3 years and older.

## **2009 Educational Environments**

### Alaska

The developmental delay disability category does not apply to children ages 9 years and older.

### American Samoa

American Samoa does not serve 3- to 5-year-old children with disabilities in separate classrooms, separate schools, residential facilities, or service provider locations because it does not have these facilities.

American Samoa does not serve 6- to 21-year-old students with disabilities in separate schools or residential facilities because it does not have these facilities.

### Arkansas

The developmental delay disability category does not apply to children ages 6 years and older.

### Bureau of Indian Education

The Bureau of Indian Affairs per CFR 25 does not serve students who will not be 5 years old by December 31 of a given year and therefore does not provide counts for children younger than 4 years of age.

### California

The developmental delay disability category does not apply to children ages 3 years and older.

### Colorado

Colorado does not use the other health impairment disability category.

### Connecticut

The developmental delay disability category does not apply to children 6 years and older. The state does not permit incarceration of children younger than 14 years of age.

### Delaware

Delaware does not use the disability category multiple disabilities.

### District of Columbia

The District of Columbia permits placement of 3- to 5-year-olds in residential facilities and also permits the incarceration of children ages 6 through 11. However, at the time of the 2009 child count, there were no children to report under these categories.

### Florida

The multiple disabilities category does not apply for Florida.

### Georgia

The multiple disabilities category does not apply for Georgia.

### Idaho

Idaho does not permit the incarceration of children under the age of 12 years old.

### Indiana

Indiana does not permit incarceration of children ages 12 and younger.

### Iowa

In Iowa, the developmental delay disability category does not apply to children ages 3 and older.

### Micronesia

The Federated States of Micronesia has not developed a formal assessment tool to measure the status of students' English language proficiency.

### New Jersey

The developmental delay disability category does not apply to children ages 6 years and older.

### New York

The developmental delay disability category does not apply to children ages 5 years and older.

### Northern Marianas

The Northern Marianas' predominant language is English as well as our language of instruction. Currently, the Northern Marianas do not have a testing instrument to measure the proficiency of the

predominant language for all students with and without disabilities. The state school system is in the process of finalizing a testing instrument to measure language proficiency for all students.

#### Ohio

The developmental delay disability category does not apply to children ages 6 years and older.

#### Palau

Palau Ministry of Education Special Education Program does not have the following placements: residential facilities and correctional facilities. All Palau special educational students are English Language Learners. English is the second language.

#### South Dakota

The developmental delay disability category does not apply to children ages 6 years and older.

#### Texas

The developmental delay disability category does not apply to children ages 3 years and older.

### **2008 Personnel**

#### Alaska

Alaska does not employ social workers to serve children with disabilities.

#### American Samoa

American Samoa collects data for audiologists, interpreters, and physical education teachers for the related services section, but did not have any to report for these categories for the 2008-09 school year.

Fully certified for speech-language pathologists and the psychologists categories is based on their certification on their specific areas of work.

#### Arkansas

Arkansas does not employ speech language pathologists as related services personnel to serve children with disabilities. Speech pathologists are reported as special education teachers. Speech is considered an instruction, not a related service in Arkansas.

#### Connecticut

The FTE of special education teachers for ages 3 through 5 reported for 2008-09 demonstrate a significant increase compared to the FTE reported in 2007-08. This increase was attributed to the increase of early childhood programs.

Prior to 2008-09, the special education paraprofessionals for ages 3 through 5 were subsumed in the 6 through 21 data. Therefore, there was a decrease in the paraprofessionals for ages 6 through 21 FTEs since the Department is now separately reporting the FTEs for special education paraprofessionals for ages 3 through 5.

Prior to 2008-09, Connecticut did not break out the percentage of time that psychologists, social workers, and counselors spend with students with disabilities and their peers without disabilities. The decrease in the FTEs was the result of reporting only time spent with students with disabilities.

Because Connecticut does not certify or have any jurisdiction over the other listed related service personnel, the state does not collect data on the number of these personnel employed by LEAs in the state. Therefore, Connecticut was unable to report the number of related services personnel in the other categories that may be providing services to students with disabilities. The state of Connecticut does not intend to collect these personnel categories; they are not required under IDEA, and state law does not allow the Department of Education any jurisdiction over these personnel.

### Delaware

Delaware employs the following related services personnel to serve children with disabilities, but had none to report for the 2008-09 reporting year:

- Interpreters
- Physical education teachers and recreation and therapeutic recreation specialists
- Social workers
- Medical/nursing service staff
- Counselors and rehabilitation counselors
- Orientation and mobility specialists

The increase in highly qualified paraprofessionals and the decrease in non-highly qualified paraprofessionals was attributed to Delaware's ongoing focus on getting all staff to meet the highly qualified requirements. The increase in paraprofessional positions overall was tied to Delaware's efforts to place special education students in the least restrictive environment, as well as an increase in paraprofessionals providing additional instructional support in Response to Intervention initiatives.

### District of Columbia

The District of Columbia does not employ or contract audiologists, interpreters, or physical therapists, orientation and mobility specialists, or medical and nursing staff to provide services to children with disabilities. The OSSE did not collect data for audiologists, interpreters, or physical therapists, orientation and mobility specialists, or medical and nursing staff for the 2008-09 school year. The OSSE expects to collect this information for the 2009-10 school year.

### Georgia

In 2007, paraprofessionals for ages 3 to 5 were reported by program-teacher class association. In 2008, these data were reported independently from an associated teacher. The new collection protocol provided for a more accurate count of multiple paraprofessionals assigned to the same classroom and accounted for both the increase in paraprofessionals for ages 3 to 5 and the decrease in paraprofessionals for ages 6 to 21.

In 2008, new hire teachers represented 12.2% of Georgia's teacher force. Given the 15,273 special education teachers for ages 6 to 21 in FY08, this reflected approximately 1,800 special education new hires. At the present time, the pool of highly qualified personnel is not consistent with the established need.

In 2008, a change in personnel reporting allowed districts to report both employed and contracted personnel in a single report rather than in two different collections. Viewing the counts as an aggregate number has allowed districts to more effectively account for all staff.

### Guam

Guam employs counselors (school guidance counselors) but had none to report for this reporting year. Guam reported 0 in the respective category.

### Idaho

Idaho was unable to report whether it employed social workers and counselors/rehabilitation counselors in terms of the FTEs spent working with students with disabilities.

### Illinois

Illinois' personnel data does not include personnel employed by private agencies or staff serving in nonpublic schools. As a result, Illinois' personnel data were an undercount.

Illinois' early childhood special education teachers are not required to meet highly qualified requirements as Illinois school districts are not required to provide preschool services to all students.

Some special education teachers of students in the 6 through 21 age range may not meet the highly qualified requirements if they are working on the basis of a special education approval. Illinois does not collect special education teacher data by ages served. As a result, the state was only able to provide a separate count of teachers serving 3- through 5-year-olds when their services were provided in an early childhood or preschool setting. All other personnel who may be serving students ages 3 through 5 were reported as serving 6- through 21-year-old students. As a result, the number of teachers for children ages 3 through 5 was an undercount, and the number of teachers for students ages 6 through 21 was a slight overcount.

The increase for Illinois in the category special education paraprofessionals for ages 3 through 5 – total who were employed or contracted to work with children with disabilities was directly attributed to changes in the personnel reporting system in the 2008-09 school year. Illinois provided data for special education paraprofessionals serving children with disabilities for students ages 3 through 5 in previous data submissions; however, all paraprofessional data were reported in the 6 through 21 age range. Since many paraprofessionals may have been assigned to more than one classroom and may have provided services to students in both the 3 through 5 and 6 through 21 age ranges, all paraprofessional were reported in the 6- 1 age range to avoid double counting. Illinois implemented changes to the personnel reporting system to make disaggregation possible for the 2008-09 school year. These changes were documented in the data note submitted to Westat and OSEP regarding the 2007-08 personnel submission.

### Michigan

After further analyses, the Michigan Department of Education, OSE-EIS could find no correlations between an increase in speech and language pathologists and any substantive changes in policy, data collection, and/or changes in the number of students eligible for speech and language programs and/or services. In other words, the state did not identify any substantive changes that may have accounted for an increase in the number of speech and language pathologists that occurred between 2008 and 2009. The state will continue to monitor these and other staffing changes in the future.

## Micronesia

Micronesia employs the following related services personnel to serve children with disabilities, but had none to report for the 2008-09 reporting year: social workers, psychologists, occupational therapists, orientation and mobility specialists, medical nursing service staff, physical education therapists, and recreation and therapeutic recreation specialists.

## Mississippi

Mississippi was unable to provide a separate count of paraprofessionals who provided special education and related services to children ages 3 through 5 with disabilities from those ages 6 through 21.

## Missouri

The decrease in paraprofessionals for ages 6 through 21 was attributed to 2008-09 being the first school year that Missouri collected personnel data through a new data collection system. The most significant change regarding the personnel data collection was that individual students were linked to teachers. The system does not require that students be linked to paraprofessionals, therefore it is possible that some districts failed to extract data for all paraprofessionals (who had no students tied to them) when they extracted the teacher data. Extensive data verification was conducted on the personnel data, but much of the verification focused on the reporting of teachers more so than on the reporting of paraprofessionals. Data for 2009-10 show a rebound in the number of paraprofessionals, so the drop in 2008-09 was most likely related to the new reporting system. Staff salary (a reimbursable expense) is collected in conjunction with the personnel data, which provides incentive for districts to include all ECSE staff, including paraprofessionals. Data for 2009-10 show that the number of paraprofessionals for ages 3 through 5 continues to increase.

## New Jersey

With respect to the version of the 2007-08 personnel data submitted for publication, the counts for special education teachers by age of children (ages 3 to 5 and 6 to 21) served and paraprofessionals serving children ages 3 to 5 years old were missing due to error. Data will be revised and resubmitted for this file at a later date.

## New Mexico

The discrepancies in special education teacher numbers from 2007 to 2008 were primarily due to miscalculation of full time equivalents (FTEs) for special education teachers. In New Mexico, districts are funded by caseloads and not class loads. The parameters used to report teacher assignments in 2007 relied on licensing (caseloads) rather than the percentage of time spent teaching in highly qualified content areas. When an adjustment was made in 2008 to measure FTEs based on federally mandated guidelines, the number of highly qualified teachers proportionally decreased.

In 2008, the number of qualified paraprofessionals for students ages 3 through 5 increased due to an increase in the number of students with severe disabilities who required additional support. In 2007, the state changed its licensing requirements for paraprofessionals. This also caused the initial decrease in 2007 until the paraprofessionals could meet the new requirements.

The number of qualified paraprofessionals for students ages 6 through 21 increased due to a decrease in highly qualified special education teachers. According to 22-10A-17.1, instructional assistants can provide services under the direct supervision of duly licensed staff.

## North Dakota

In the past, the state was only able to use data manually collected from its school districts and special education units. For the first time, last year, the state could pull data electronically from its MIS03/PER02 personnel collection. The new personnel numbers reflected what was actually happening in the state, and the teacher numbers were actually linked to teacher compensation, suggesting further accuracy. Identifying and correcting coding discrepancies added to the ability to appropriately report personnel, first by position employed code, then by area of responsibility code, and finally by course or non-course assignment codes. These activities will improve, once again, the accuracy of the personnel data for the 2009-10 school year.

## Northern Marianas

Northern Marianas does not employ interpreters, social workers, orientation and mobility specialists, or medical/nursing service staff. If the above personnel services are needed, our state contracts them from private providers.

## Oklahoma

In reviewing the data changes for personnel data in Oklahoma, the decrease in the number of special education teachers for ages 3 through 5 and an increase in the number of special education teachers for ages 6 through 21 were related to a new data collection process. Oklahoma has implemented a new data collection system for collecting the number of teachers who provide services to students in the state. The new collection requires the grade taught and whether they teach special education or not be identified. The new collection allows for a more accurate count of teachers and their assignments. Oklahoma has not had any policy changes that would affect the number of teachers in either of these groups.

## Palau

Palau does employ special education paraprofessionals to serve children ages 3 through 5 and 6 through 21 with disabilities, but had none to report for the 2007-08 reporting year.

## Rhode Island

Rhode Island does not employ or contract interpreters to provide services to children with disabilities.

The increase in the number of special education teachers for ages 3 through 5 totals was because there was an inconsistency between the data submitted to DANS and the data that were submitted by RIDE in EDEN. RIDE EDEN data submitted indicated a decrease in the number of special education teachers in this area. This decrease was reflective of a change in Rhode Island's special education regulations related to class size requirements.

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The increase in the number of special education paraprofessionals for ages 3 through 5 totals and special education paraprofessionals for ages 6 through 21 totals was because there was an inconsistency between the data submitted to DANS and the data that were submitted by RIDE in EDEN. Although the RIDE EDEN data submitted also indicated an increase in the number of special education paraprofessionals 3

through 5 and 6 through 21. This increase was reflective of an upgrade to the Rhode Island data collection process to provide the special education paraprofessional data by age served.

### Texas

The Texas Education Agency does not collect data on related services personnel who are not qualified because the districts are required to employ/contract with only fully certified related services personnel

### Virgin Islands

Virgin Islands does not employ or contract medical and nursing staff or Counselors and rehabilitation counselors to provide services to children with disabilities.

## **2008-09 Exiting**

### Alabama

Alabama requires that all students ages 3 through 21 with disabilities be provided special education and related services unless a student receives a diploma, transfers to a regular education program, or dies.

Data are not collected for students ages 14 through 17 in the reached maximum age category.

Students reported as having received a certificate, dropped out, or reached maximum age between the ages of 18 through 21 may return at any time to continue special education and related services up to age 21. Alabama continues to provide guidance to local school systems to assist the IEP teams in making appropriate exiting decisions.

There are no age requirements in Alabama in which a student may receive a diploma, although there are specific attendance, course, and assessment expectations.

### Alaska

Alaska continues special education services through age 21. If a student is still 21 on October 1 of the school year, he/she may continue to receive services through that school year even after turning 22.

Alaska does not have a lower age for receiving a certificate; however, to receive a certificate the student must have met the graduation credit requirements and must have attempted the high school graduation exam, which is not offered until spring of their sophomore year. These requirements make it unlikely that a 14- or 15-year-old student would receive a certificate, but no statute or regulation would prevent this from happening if the student passed the credit requirements and attempted the high school graduation exam.

Alaska does not have a lower age for receiving a regular diploma; however, it requires all students to pass a high school graduation exam that is not offered until spring of the student's sophomore year. The student is also required to meet the credit requirements. These requirements make it unlikely that a 14- or 15-year-old student would receive a regular diploma, but no statute or regulation would prevent this from happening if the student passed the exam and met the credit requirements.

### Arkansas

In Arkansas, students who turn age 20 by December 1 of the current school year are considered to have reached maximum age.

## Colorado

Colorado law defines the category of physical disabilities, but it is not broken into orthopedically impaired and other health impairments. All children with physical disabilities are reported under the category orthopedically impaired.

Children with disabilities may receive services until the end of the semester in which they turn 21. The data note provided for the 2007-08 school year continues to reflect this state policy. Students were re-coded as not applicable.

Students with disabilities can receive a certificate if they complete requirements for such a certificate. The state had none to report for the 2008-09 school year.

Colorado's compulsory school attendance law (CRS 22-33-104) exempts from compulsory attendance a student (e) to whom a current age and school certificate or work permit has been issued and (h) who has graduated from the 12th grade. The law is silent regarding a minimum age at which a student can be graduated with a regular high school diploma.

## Connecticut

The maximum age for services in Connecticut is 20 or 21 based on the student's birthday. See regulation below:

Students with disabilities who require special education are eligible to receive special education and related services until receipt of a high school diploma or until the end of the school year in the event that the child turns 21 during that school year (10-76d-1(a)(7)), whichever occurs first.

There is no minimum age in Connecticut at which a student with disabilities can graduate with a regular high school diploma.

There is no minimum age in Connecticut at which a student with disabilities can receive a certificate.

## Delaware

Delaware's maximum age for services for students with disabilities is 21.

Delaware encourages students with disabilities to keep progressing along with their enrollment grade class. Certificates would typically be issued when the student has completed 12th grade.

Delaware students are permitted to graduate with a diploma at any time they fulfill graduation requirements for a regular diploma. There is no minimum age.

## Georgia

The maximum age for a student with disabilities to receive services in the state of Georgia is through age 21. Students do not age out until age 22.

Georgia does not have a minimum age for receiving a certificate.

Georgia does not have a minimum age for high school graduation.

Georgia does not permit students with disabilities to be reported in the multiple disabilities category.

## Guam

The Guam *Handbook for the Delivery of Special Education Services* defines reached maximum age as "students who are exiting under this category are students that reached maximum age (age 22) for receipt of special education services, including students with disabilities who reached the maximum age and did not receive a diploma."

The Guam DOE Board Policy Public Law 21-132, Section 4114.1, states that "students graduate based on credits and not age." Guam's policy allows for students with disabilities to graduate at age 14 or 15 if they have met the credit requirements for graduation. There were no students, however, to report in this age range for this category.

Guam does not issue certificates of completion to students with or without disabilities.

## Illinois

Per the Illinois School Code, in addition to other course requirements, each pupil entering the ninth grade must successfully complete the following courses to graduate with a regular diploma: 3 years of language arts; 2 years of mathematics, 1 of which may be related to computer technology; 1 year of science; 2 years of social studies, of which at least 1 year must be history of the United States or a combination of history of the United States and American government; and 1 year chosen from (A) music, (B) art, (C) foreign language, which shall be deemed to include American Sign Language or (D) vocational education. This does not apply to students with disabilities whose course of study is determined by an IEP. Decisions regarding the issuance of a diploma for students with disabilities whose course of study is determined by an IEP are made at the school-district level. Course requirements are the same for students with disabilities as they are for students without disabilities with the exception of those determined by an IEP team to be inappropriate.

Graduates include only students who were awarded regular diplomas. Students with GEDs and other non-regular completion certificates are not included. The calculations used to determine graduation rate for all youth with IEPs is a cohort rate. Graduation rate is calculated from the School Report Card data files by using the following formula: graduates/original freshmen plus those who transfer in, transfer out, or died. This calculation is done for all youth and youth with IEPs.

## Indiana

Indiana State Special Education Law (Article 7) applies to all special education programs provided for students at least 3 years of age through the school year in which students become 22 years of age, unless a Career and Technical Student Organizations Coordinating Council a student will leave school earlier.

The criteria used to award certificates of achievement and certificates of completion to students are developed at the local level for LEAs that decide to award students for accomplishments in the absence of a diploma. A certificate does not prohibit a student from continuing to participate in secondary education, nor extinguish a student's eligibility for special education and related services.

There is no minimum age requirement in relation to a student's ability to earn a regular diploma, only that a student earns the credits necessary for a regular diploma. To learn more about Indiana's diploma requirements visit the following webpage: [http://www.doe.in.gov/core40/diploma\\_requirements.html](http://www.doe.in.gov/core40/diploma_requirements.html).

## Iowa

FAPE is ensured in Iowa for all children/students 21 years of age and under. Students are allowed to complete the school year in which age 21 is reached. LEAs may request to provide service through age 24.

Iowa does not have a policy regarding the minimum age at which a student may receive a certificate because the only recognized method of graduation in the state is graduation with a regular diploma.

Per Iowa Code section 299.2, a compulsory attender is exempted from truancy laws if the student “has completed the requirements for graduation in an accredited school.” There is no minimum age at which these requirements may be completed.

## Kansas

In Kansas, the maximum age at which a student with disabilities can receive special education services is 21 years old.

Kansas does not permit students with disabilities to receive certificates.

Kansas does permit students with disabilities of any age to graduate with a diploma, including students younger than age 16. Based on state Regulation #: 91-31-35, the state does not have a statute or regulation that prohibits the practice. Therefore, districts are free to decide this issue locally.

## Marshall Islands

In the Marshall Islands, students with disabilities are eligible to receive services until 22 years of age.

## Maryland

Students reach maximum age when they exit at the end of the school year that the student turns 21 years of age.

Maryland’s policy regarding rewarding students with disabilities a certificate is as follows:

Definition: Received Maryland High School Certificate of Program Completion - student who exited an educational program through receipt of a Maryland High School Certificate of Program Completion or IEP Team determination that the student has developed appropriate skills for the individual to enter the world of work.

This certificate shall be awarded only to students with disabilities who cannot meet the requirements for a diploma but who meet the following standards:

- The student is enrolled in an education program for at least 4 years beyond grade 8 or its age equivalent, and is determined by an IEP team, with the agreement of the parents of the student with disabilities, to have developed appropriate skills for the individual to enter the world of work, act responsibly as a citizen, and enjoy a fulfilling life, with the world of work including but not limited to: Gainful employment; Work activity centers; Sheltered workshops; and Supported employment; or
- The student has been enrolled in an education program for 4 years beyond grade 8 or its age equivalent and will have reached age 21 by the end of the student's current school year.

Maryland State law does not preclude 14- and 15-year-olds from graduating with a regular high school diploma.

### Michigan

In Michigan, the law provides special education and related services to students until 26 years old.

In Michigan, the standard is to allow students ages 14-21 to graduate from high school with a regular diploma.

### Micronesia

Micronesia does permit students to graduate with a certificate. For the current data collection, there were no students to report in this category.

Micronesia's maximum age for students to receive special education services is 22 years old.

Micronesia does not have a minimum age for students to graduate with a regular high school diploma.

At this time, the FSM Department of Education does not have method for determining English language proficiency. FSM does not conduct formal language assessment for students. Students in the FSM enter school speaking a vernacular language from their island. They do not speak any English. There are many different vernacular languages spoken in the FSM. Instruction in the vernacular is practiced for grades 1-3. In the third grade, English is introduced as a second language. As students progress past the third grade, English is used to a greater extent. The FSM Department of Education is studying the need and feasibility to develop language assessment instruments sensitive to both FSM and English.

### Minnesota

Minnesota does not permit students with disabilities to receive a certificate.

### Mississippi

After Hurricane Katrina, Mississippi experienced substantial movement between the coastal school districts and the rest of the state. It has been almost 4 years since Katrina, and the movement of students has decreased.

### Missouri

The exit category for reached maximum age can be used only by students ages 20-21 (as of Dec. 1 of the school year). Students with disabilities “max out” of special education at age 21.

State policy does not establish a minimum age at which a student with a disability can receive a certificate; however, age 16 (as of Dec. 1 of the school year) has generally been the youngest age reported.

State policy does not establish a minimum age at which a student can graduate with a regular high school diploma; however, age 16 (as of Dec. 1 of the school year) has generally been the youngest age reported. Graduates must be in the 12th grade.

## Montana

In Montana, students are served ages 3 through 21, inclusive. Montana did not have any students in the 2008-09 Exiting data submission who were reported as having reached maximum age.

In Montana, there is no minimum age at which a student with a disability may receive a certificate. For the 2008-09 reporting year, Montana did not have any students reported as having received a certificate at age 14 or 15.

For the 2008-09 reporting year, Montana did not have any students reported as graduated with a regular high school diploma at age 14 or 15—using the following definition of a graduate:

Standard Number of Years (i.e., On-time) Graduate is an individual who:

Completes a district's graduation requirements in 4 years or less from the time an individual enrolled in the ninth grade, or has an IEP that allows for more than 4 years to graduate.

## Nebraska

Nebraska's maximum age for special education services is age 21; students would not age out unless they had reached age 21.

Nebraska does not have a minimum age for graduating with a certificate or regular diploma. The state reported zeroes in those age categories because it had no students receiving a diploma or certificate in those ages.

## Nevada

Nevada's statute (NRS 388.440) defines a pupil with a disability as a pupil who is under the age of 22 (in other words, through age 21). Because no pupil ages 14 to 20 on the date of the federal child count in a given school year can attain the age of 22 by the end of that school year (June 30), no pupil ages 14 to 20 on count day can reach maximum age in Nevada within that school year. Consequently, Nevada does not collect reached maximum age data for ages 14 to 20.

## New Jersey

The data note submitted for the 2007-08 school year was written in error. In New Jersey, the youngest age a student can graduate with a diploma is 16.

In New Jersey, the maximum age for receiving special education and related services is 21.

New Jersey does not collect data for the category of received a certificate. New Jersey does not allow students to receive a certificate.

## New York

New York does permit students with disabilities to exit special education by receiving a certificate. Note that the IEP diploma in New York State (reported as certificate) is not a regular high school diploma; however, it does indicate high school completion, based on the student's completion of his or her individual goals in the IEP.

## North Carolina

According to North Carolina law, (16 NCAC 06d .0503 HIGH SCHOOL EXIT DOCUMENTS), North Carolina has not mandated a minimum age for receiving a certificate.

[http://ncrules.state.nc.us/ncac/title 16 - education/chapter 06 - elementary and secondary education/subchapter d/subchapter d rules.pdf](http://ncrules.state.nc.us/ncac/title%2016%20-%20education/chapter%2006%20-%20elementary%20and%20secondary%20education/subchapter%20d/subchapter%20d%20rules.pdf)

North Carolina's maximum age for a student to receive special education services is 22. This is based on the following policy: FAPE must be available to all children residing in the state between the ages of 3 through 21, including children with disabilities who have been suspended or expelled from school, as provided for in NC 1504-2.1(d). Any child with a disability who requires special education and related services and who has not graduated from high school is eligible to continue to receive FAPE until the end of the school year in which that child reaches the age of 22. ([http://policy.microscribepub.com/cgi-bin/om\\_isapi.dll?clientID=313266187&advquery=22&depth=2&headingswithhits=on&hitsperheading=on&infobase=ncser.nfo&record={9EA7}&softpage=PL\\_frame](http://policy.microscribepub.com/cgi-bin/om_isapi.dll?clientID=313266187&advquery=22&depth=2&headingswithhits=on&hitsperheading=on&infobase=ncser.nfo&record={9EA7}&softpage=PL_frame))

According to North Carolina law, (16 NCAC 06d .0503 STATE GRADUATION REQUIREMENTS), North Carolina has not mandated a minimum age for graduation.

<http://ncrules.state.nc.us/ncac/title%2016%20-%20education/chapter%2006%20-%20elementary%20and%20secondary%20education/subchapter%20d/16%20ncac%2006d%20.0503.html>

## North Dakota

North Dakota does not permit students to be classified in the multiple disabilities category.

## Northern Marianas

The Northern Marianas's predominant language and language of instruction is English. Currently, the Northern Marianas does not have a testing instrument to measure the proficiency of the predominant language for all students with and without disabilities. The state is in the process of creating a testing instrument to measure language proficiency for all students.

## Ohio

Students who have reached the age of 18 have reached the maximum age that a district can REQUIRE a student to attend, so students who leave the educational setting at those ages are reported as having aged out of required attendance. Ohio schools are required to provide special education and related services to students with disabilities through age 21 should those services be applicable. Pursuant to Wisconsin v. Yoder, Amish children may stop attending school at age 14; during the 2008-09 school year, Ohio had no children ages 14-17 with disabilities reaching maximum age.

Ohio does not offer a graduation certificate for those students who do not meet the same graduation requirement as their peers without disabilities. Ohio has only two diploma types—regular and with honors. However, OSEP required us to identify and report as received a certificate students whose graduation requirement differed from that of typical students.

Ohio does not have a minimum graduation age. Graduation attainment is determined by the LEA. The data are reflective of LEA activities.

## Oklahoma

Oklahoma has a maximum age for children with disabilities who receive services through the age of 21. A student can receive a diploma if he/she meets the graduation requirements during that time. The state did have a data error of students ages 18 and 19 as aging out. This was a data error, and a data edit check will be in place for the upcoming fiscal year to not allow students who have not reached a maximum age to be exited under the age out exit code.

Oklahoma does not provide a certificate as a substitute for graduating.

Oklahoma students cannot graduate before the age of 14 or 15 due to the graduation requirements of our state.

## South Dakota

The privileges of the public schools of any district are free to all persons with school residence within the district until they complete the secondary school program or until they reach the age of 21. A pupil who is enrolled in school and becomes 21 years of age during the fiscal school year will have free school privileges during that school year.

South Dakota has only one recognized diploma. South Dakota Department of Education/Board of Education does not recognize a certificate of completion. Currently, students who take the GED must drop out of high school for at least 6 months before they are eligible to take the GED. They also would not receive a certificate.

South Dakota does not have a policy for minimum age to graduate with a regular diploma.

## Virginia

Students with disabilities may receive special education services as long as they have not reached the age of 22 prior to September 30 of the school year. It is not possible for a student to reach maximum age unless he/she is 21 years old.

There is not a minimum age for receiving a certificate, but certificates are awarded to students for completion of a high school program in accordance with the individual IEP.

Earning a regular high school diploma requires earning of high school credits, something that would be nearly impossible to accomplish at the age of 14 to 15. There is not an established minimum age for receiving a regular high school diploma.

## Washington

As reported in previous submissions, Washington does not currently have complete data on the element return to regular education at this time. Washington implemented a new data collection system in 2009-10, which should give the ability to collect these data. Washington anticipates that the data will be available for reporting within the 2009-10 reporting period.

## 2008-09 Discipline Data Notes

### American Samoa

American Samoa cultural values of respect and obedience play an important role in families, churches, community, and as well as education. These values affect the way our students behave. Our church ministers play an important role to provide guidance and encouragement for good behavior. Our village councils have village curfews for good behavioral conduct. And, of course, the school carries the same values to encourage good and positive behavior. This way of life does not guarantee the state will not have any disciplinary cases for the future; however, with these values in place, it makes a lot of difference. American Samoa did not have any discipline cases for this reporting period.

### California

California follows all required due process procedures related to discipline, suspension/expulsion. As noted in Table 7 of the IDEA Part B Data Reports for the 2008-09 School Year, California reported 42 expedited due process complaints (related to disciplinary decision). There were no due process complaints where the hearing officer removed the student to an interim alternative education setting on a determination regarding likely injury.

California is currently unable to report the number of students expelled in the general education system.

### Colorado

1. Resource allocation at the Administrative Unit (AU) level. Decisions were made to eliminate in-school suspension as an option for discipline as a cost-saving measure in a number of AUs. These decisions were made outside of special education processes and addressed the schools' systems and continuum of disciplinary options. Because a number of larger AUs eliminated in-school suspensions, the data reflect a significant decrease in the reported number of incidents reported as in-school suspensions. Because of limited options, when students were suspended, it was out-of-school rather than in-school. While the overall number of disciplinary incidents decreased for both types of suspensions, the shift in proportion of in-school to out-of-school was affected.
2. When in-school suspensions occurred, more AUs are meeting the Department's policy described in the Preamble of the August 14, 2006, *Federal Register* at page 46715. Students in in-school suspension are given the opportunity to continue to appropriately participate in the general curriculum, continue to receive the services specified on the child's IEP, and continue to participate with children without disabilities to the extent they would have in their current placement. When these conditions were met, students in in-school suspension were not reported.
3. The state continues to promote positive behavior interventions and supports. This may affect the consistent decline in disciplinary incidents in the state.

### Connecticut

Connecticut passed a law effective July 1, 2008, that requires that all suspensions from public schools be in-school suspensions, unless during the suspension hearing the administration determined that the pupil posed such a danger to persons or property or such a disruption to the educational process that an out-of-school suspension was necessary (C.G.S. § 10-233c(g)). The implementation of this law was later postponed in emergency session until July 1, 2010, but due to the delay in passage to the postponement, many school districts began implementation immediately. It is CT's expectation that the number of in-

school suspensions will continue to rise while out-of-school suspensions will continue to decline for the foreseeable future, as this law is fully implemented by all public school districts in the state.

### Delaware

Data regarding the expulsion of children without disabilities were not available at time of submission.

The state's process regarding the removal of a student with disabilities by a hearing officer is consistent with federal statutes for dealing with complaints regarding disciplinary removals. It is unusual for cases of this nature to rise to the level of an expedited due process hearing, and they are typically resolved at a district level.

Delaware does not use the multiple disabilities category when identifying disability status for children with disabilities ages 3 to 21 for purposes of reporting under IDEA.

### District of Columbia

The District of Columbia had a substantially lower number of unilateral removals, suspensions, and a fluctuation of the total number of removals reported by cumulative length of removal due to a misalignment of its definitions to *EDFacts* reporting. The District of Columbia worked this year to ensure alignment of its definitions to *EDFacts* reporting. The District also provided individual technical assistance and ensured that LEAs certified their data on submission. This ensured improved LEA data quality for the 2008-09 year. Due to staff turnover, the District was unable to ascertain guidance or the level of assistance provided to LEA staff in prior years. This year's data definitions were fully aligned with *EDFacts* reporting requirements, and the District will be able to consistently analyze and trend the data in coming years.

### Guam

Upon review of the trend data provided for both 2007-08 and 2008-09, Guam notes the following: A decrease in the number of children with out-of-school suspensions for less than 10 days and a decrease in the number of children with in-school suspensions for less than 10 days. These decreases may be attributed to the activities described in the SPP/APR Indicator 4 Improvement Activities.

Guam also notes the decrease in the total number of children removed for 1 day and the increase in the total number removed for 2-10 days. Again, the decrease in the total number of children removed for 1 day may be attributed to the activities described in the SPP/APR Indicator 4 Improvement Activities. While there was an increase in the total number removed for 2-10 days, Guam's numbers are quite small such that any increase and/or decrease will greatly affect the percent differences calculated.

Here are the Indicator 4 Improvement Activities that were developed and accepted by OSEP:

1. Guam is working toward establishing a consistent method for determining suspension/expulsion data for students with and without disabilities, which would include training to school administrators at all levels. To date, meetings with secondary administrators charged with discipline at their schools continue to be held to review discipline data and to conduct data drill down exercises as they review these data.
2. Guam is working toward developing and analyzing aggregated and disaggregated suspension/expulsion data rates for all students to assist with prioritizing program activities for subsequent years. To date, Guam Department of Education has purchased a new student data management system; Division of Special Education personnel have been collaborating with the Finance, Student,

and Administration Information System (FSAIS) Office to ensure appropriate data are collected and reviewed.

### Illinois

The Illinois State Board of Education (ISBE) has been in communication with OSEP regarding the collection of discipline data for students with and without disabilities in light of the reporting requirements added to IDEA Table 5, Part B: Report of Children with Disabilities Subject to Disciplinary Removal. ISBE refined the Illinois Student Information System to collect these required data elements and implemented the technical changes necessary to collect these data. However, local district administrators expressed concerns regarding the potential misuse of these data and the "labeling" of students based on their previous disciplinary histories, which could potentially occur because of a mandate to report individual student discipline data. ISBE studied methods to address these concerns and to also ensure compliance by the ISBE and local districts with both federal reporting requirements and applicable student confidentiality laws and regulations, such as Family Educational Rights and Privacy Act (FERPA). Further, a stakeholder group with representation from ISBE and local district superintendents was formed to develop a solution to these concerns.

ISBE is confident that these previous concerns have been fully addressed. As such, fluctuations in the data reported for the 2008-09 school year were expected as compared to the data reported for the 2006-07 and 2007-08 school years.

### Indiana

Indiana reported that no students were removed by a hearing officer in school year 2008-09 due to posing a threat of injury to themselves or others.

Indiana's procedures for addressing complaints regarding disciplinary removals are consistent with federal law requirements as described in 34 CFR 300.532(b)(ii). In 2008-09, all requests for expedited due process hearings related to disciplinary removals were requested by the parent. Of the hearing requests, all but one resulted in dismissals, and therefore did not result in the student being removed from placement. The school prevailed in the one hearing that was decided and subsequently appealed.

### Louisiana

Louisiana reported that no students with disabilities were removed from placement by a hearing officer due to posing a threat of injury. In past years, some of Louisiana's larger districts were placed under corrective action because of issues regarding compliance with disciplinary requirements. Some districts were confused about the difference between a hearing officer's removal on the basis of threat of injury and the district's authority to remove a student for actual serious bodily injury. The state has done training on this issue, procedurally as well as substantively. The state prefers and counsels proactive measures with all districts and encourages districts to provide necessary supports and interventions to prevent escalation to a crisis situation. Currently, many of schools address such issues through IEP meetings in collaboration with the parent, and therefore the matters never rise to the level of requiring due process review. Confusion or a lack of understanding does persist with regard the difference between a child who poses a threat and a child in need of behavior interventions; the state continues to try to address this confusion by providing training to the districts.

## Maine

The reduction in the number of suspension and removals reported in 2008-09 was a direct result of improvement in the data collection. The state formerly reported these data using annual district level submissions primarily focused on capturing incidents of prohibited behavior required for the Office of Substance Abuse. Those data did not relate individual incidents to disciplinary actions, so many more incidents were reported toward suspension, expulsions, and removals than were directly related to those disciplinary actions. The 2008-09 collection was made using the state's student information system. The collection is done as each incident occurs, for each student, and captures type and duration of disciplinary action at the time of the incident. The result was a significant improvement in data detail and accuracy.

## Maryland

Maryland State Department of Education reported in 2008-09, that of the due process complaints received, 3 percent were related to discipline, and of these complaints none resulted in a due process hearing being conducted.

## Micronesia

At this time, the FSM Department of Education does not have a method for determining English language proficiency. FSM does not conduct formal language assessment for students. Students in the FSM enter school speaking a vernacular language from their island. They do not speak any English. There are many different vernacular languages spoken in the FSM. Instruction in the vernacular is practiced for grades 1-3. In the third grade, English is introduced as a second language. As students progress past the third grade, English is used to a greater extent. The FSM Department of Education is studying the need and feasibility to develop language assessment instruments sensitive to both FSM and English languages.

## Mississippi

It was discovered midway through the 2008-09 school year that the school packages did not include the correct number of days on suspensions/expulsions. This problem was fixed, which resulted in more accurate reporting of the data. This is the reason the number of students suspended/expelled more than 10 days went down and the number suspended/expelled fewer than 10 days went up.

## Nebraska

Nebraska has made a push at the state and local levels to keep children in school to maintain access to peers and curriculum. The practice of suspending out of school, therefore, has dropped as a result of increasing school disciplinary options.

## New Hampshire

New Hampshire has the ability to collect information on hearing officer removals, but during school year 2008-09, there were none to report.

## New Jersey

New Jersey does not collect discipline data on students ages 3 through 5 in the category developmental delay.

## North Carolina

North Carolina reported that no children were removed by a hearing officer in 2008-09 due to the likelihood that the continued placement could result in injury to the child or others. This report represented a substantial drop from previous years. The decrease was attributed to an overestimation in prior years' reports due to districts and schools mistakenly reporting removals by principals or other school officials as removals by a hearing officer. Note that while North Carolina had no removals by a hearing officer to report for 2008-09, there were some due process hearings held regarding disciplinary removals, but none of these cases resulted in the child being removed from placement.

## North Dakota

The total number of suspensions in North Dakota decreased by 25 percent. This decrease occurred primarily in the category of students suspended out of school, resulting in a proportionate increase in the number of students suspended in school and proportionate decrease in the number of students suspended out of school between school year 2007-08 and school year 2008-09.

## Northern Marianas

The Northern Marianas' predominant language and language of instruction is English. Currently, the Northern Marianas does not have a testing instrument to measure the predominant language for all students with and without disabilities. The state system is in the process of creating a testing instrument to measure language proficiency for all students.

## Oklahoma

Oklahoma does not currently have a data collection for identifying whether students who were expelled received services. The policies and procedures do state that students are to receive services when out of school for more than 10 school days; however, a data collection was not utilized. The state is developing the ability to identify if services were provided for each suspension that resulted in more than 10 consecutive days or a collection of more than 10 days that was a result of the same type of offense.

## Oregon

Oregon reported that there were no removals of students with disabilities by a hearing officer due to threat of injury for school year 2008-09. Consistent with the data reported in Table 5, the absence of any removals by hearing officers during the reporting period was due to the small number of due process hearings held during the period and the overlap between the hearing officer removal provision and the weapons, drugs, and serious bodily injury provisions in 34 CFR § 300.530(g).

Oregon does not use the multiple disabilities category when identifying disability status for children ages 3 to 21 with disabilities for purposes of reporting under IDEA.

## Puerto Rico

Discipline data showed a significant decrease in all areas related to out-of-school suspensions, in-school suspensions, and disciplinary removals for the 2008-09 year in comparison to 2007-08 data due to several contributing factors.

Monitoring and technical assistance were provided to individual districts that had questionable data, inaccuracies, and/or inconsistencies in their reported data. During consultation and provision of technical

assistance, the state provided review and clarification of the definitions of discipline categories. It was evident there had been a lack of understanding regarding these terms. Districts were required to send corrections and/or resubmissions of discipline data for all errors.

The state is optimistic that the improved numbers will continue in a consistent trend for years to come.

### Texas

Texas does not collect data on developmental delay in any of the age categories.

### Vermont

Data were submitted in pre-suppressed format in accordance with Vermont Department of Education policy, could not be subject to analysis, and therefore were excluded from these tables. Any count less than 11 is suppressed in accordance with Vermont State Board of Education policy.

### West Virginia

West Virginia does not use the multiple disabilities category when identifying disability status for children ages 3 to 21 with disabilities for purposes of reporting under IDEA.

The number of students with out-of-school suspensions/expulsions 10 days or less and the number with disciplinary removals 2 to 10 days increased over the number reported in the previous year partially as a result of a change in the business rule for reporting removals of less than 1 full day. Previously, a removal reported as zero (0) days was not counted. For 2008-09, a recorded removal for 0 days was counted as 0.5 days. The record system does not permit data entry for a fraction of a day.

## **2008-09 Assessment**

### Alabama

A review of the Alabama Alternate Assessment (AAA) portfolios for the 2007-2008 school year revealed that a significant portion of the information collected to demonstrate proficiency was less than adequate. The data indicated a need for further training to teachers specifically in the area of AAA portfolio assessment collection that clearly demonstrated achievement of the indicated standards and overall provision of assessments. During 2008-09, the Assessment and Special Education Services sections within the Department jointly provided training to improve teacher knowledge and skills in all areas of statewide assessments. The result of that effort appears to be not only an increase in the number of students who scored proficient on the AAA for 2008-09, but also an increase in the number of students who received accommodations on regular assessments on grade-level achievement standards in reading.

### Alaska

The numbers reported in Table 6 match the data submitted through *EdFacts*. The 2008-09 data are not comparable to past years' submissions due to the grades included in the report. In all past submissions of Table 6, Alaska reported data on grades 3-8 and 10. This year, the state reported data on grades 3 through 10.

Including grade 9 changed the state's overall participation counts and its percent proficient. Rerunning the 2007-08 percent proficient data with grade 9 included as it was in the 2008-09 counts gave the following results:

Alternate Assessment Reading – 1 percent change in percent proficient between 2007-08 and 2008-09

Alternate Assessment Math – 4 percent change in percent proficient between 2007-08 and 2008-09

Regular Assessment (SBA) Reading – 2.5 percent change in percent proficient between 2007-08 and 2008-09

Regular Assessment (SBA) Math – 2.5 percent change in percent proficient between 2007-08 and 2008-09

When both years include the ninth grade data, there is no significant year-to-year change in the proficiency rate.

### American Samoa

The lowest level for achievement for Standards-Based Assessments (SBA) testing is 3 for proficient. The SBA is scored on a four-scale rubric, where 1 is below basic; 2 is basic; 3 is proficient; and 4 is advanced. American Samoa Department of Education decided that the lowest level of achievement to be considered proficient is 3. The scale also applies to the alternate assessment.

Since American Samoa is an outlying territory, it did not have any limited-English proficient students who were in the territory for fewer than 12 months.

For the No Child Left Behind (NCLB) 1% cap, no students scored advanced or proficient.

### Arizona

The state currently has only Arizona's Instrument to Measure Standards and AIMS-Alternate. No out-of-level testing is allowed.

Arizona does not allow English-language learner (ELL) students to replace the regular reading assessments with limited-English proficiency (LEP) tests. These students fully participate in the regular assessment, and their performance is reported under both the Individuals with Disabilities Act (IDEA) and adequate yearly progress (AYP).

In Arizona, any students with disabilities who were enrolled on the assessment date and did not take the test are reported as absent.

All other fields (parental exemptions, medical emergencies, other reasons) are left unreported, as data are not collected for these categories.

The increase in the proportion of students who scored proficient on the alternate assessment based on alternate achievement standards on both the math and reading assessment was likely due to the clarification of the Alternate Academic Standards and increased training to teachers who administer AIMS-A. The training consisted not only of how to administer the assessment but also included how to instruct and assess the standards. Teachers are increasing their awareness of academic instruction in their classrooms, as well as their understanding of standards-based IEPs.

Additionally, the test items were designed with more universal design techniques and were reviewed by numerous committees for content, bias, and clarity. The increase in the percentage of test scores could also be attributed to the addition of the performance task portion of AIMS-A. This part of the test allowed more students to demonstrate their content knowledge through performance rather than multiple choice.

## Arkansas

The enrollment date is different depending on the test taken; however, April 13, 2008, represented the majority of students.

Arkansas does not allow out-of-grade-level testing or parental exemptions.

High school math is not grade-level specific, but grade 10 was chosen to represent the collective of students grades 7 through 12 taking the courses.

In Arkansas, of the LEP students who took the 2007-08 assessment, no special education student was identified as having the regular reading/literacy assessment replaced with the English proficiency assessment. All students took the regular reading/literacy assessment.

The increase in the number of students who scored proficient on the alternate assessment based on alternate achievement standards for math and reading assessment was the result of continual training with teachers and administrators on the administration of the alternate portfolio assessments. The manuals and forms for each assessment and grade level can be found at <http://www.arkansased.org/testing/assessment/alternate.html>.

## Bureau of Indian Education

BIE is located in 23 states and tests according to each state's guidance. Therefore, all high schools' grades are combined for this report.

BIE does not report LEP students who were in the U.S. fewer than 12 months and did not fully participate in the reading assessments because by law the BIE serves American Indian students (Native Americans). The definition of American Indian does not include immigrant students, and BIE does not collect these data.

## Colorado

For the 2009 Colorado Student Assessment Program (CSAP) and CSAP Alternate data reporting on Table 6 for DANS, the Colorado Department of Education (CDE) was required match the data that were submitted to EdFacts. To do this, the CDE changed how the data were reported in Table 6. The reasons for the changes were:

- 1) EdFacts has some reports that combine CSAP and CSAPA.
- 2) CSAP has four proficiency levels, and CSAPA has five proficiency levels.
- 3) EdFacts could not handle the difference in the number of proficiency levels between CSAP and CSAPA.
- 4) The state wanted to match the Title 1 reporting for AYP for which levels are considered proficient.

The changes in the reporting from the 2007 assessment (2008 CSAP/CSAPA) to the 2008 assessment (2009 CSAP/CSAPA) were:

- 1) Proficiency for CSAP was now defined as partially proficient, proficient, and advanced to match how AYP defines proficiency, whereas the year before, proficiency was defined as proficient and advanced. Obviously, this greatly increased the number of students listed on Table 6 who were proficient. The increase was due to the change in the definition of proficiency.

- 2) EdFacts instructed states to just report CSAP as L1 not proficient and L2 proficient, while CSAPA still reported the individual levels of 1 through 5 (No Scores are not counted in either assessment).
- 3) The definition of proficiency for CSAPA did not change from the 2007 to 2008 assessment, and this demonstrated that there was not a jump in the proportion proficient on the alternate assessment.

### Connecticut

All exemptions in the 2008-09 assessment year were for medical purposes.

Connecticut does not allow students to be parentally exempted from participation in statewide assessments.

All students participating in the Modified Assessment System (MAS) were part of a pilot of the new modified assessment. In accordance with the Connecticut State Department of Education federally approved plan to pilot a MAS, all participants were automatically reported in the lowest achievement level (basic) as actual achievement scores did not exist in the pilot phase of assessment development.

After meeting to review its alternate assessment with the Elementary and Secondary Education Act (ESEA), it was determined that the state's alternate assessment was on-grade level with *curriculum* standards but not on-grade level with *achievement* standards. Therefore, the state is now reporting the alternate assessment data in the other category.

### Delaware

Delaware did not have any students to report with invalid results. Delaware does not permit out-of-level testing. Delaware does not permit parental exemptions from testing. Delaware does not permit parents to opt out of testing. Delaware does not have a separate policy for medical emergencies. They are counted under the reasons for exemption.

Delaware does not require LEP students in the United States for fewer than 12 months to participate in regular assessments. Although data regarding the number of these students does exist in the system, the state was not able to report these numbers at this time.

### District of Columbia

There was an error in the data submitted for the 2007-08 year, and the District planned to resubmit these data during the 2009-10 reporting year.

Federal regulations stipulate that no more than 1 percent of all students in tested grades in a state can count as proficient or advanced on an alternate assessment based on alternate achievement standards for the purposes of calculating AYP. If the cap is exceeded, the Office of the State Superintendent of Education must adjust the scores of some students from proficient to non-proficient to comply with the 1 percent cap.

The reclassified scores were factored into the school's and LEA's AYP determination for the all-students group, the students with disabilities subgroup, and any other subgroup in which the student belonged. This reclassification caused students who were advanced to be classified as proficient and those who scored as proficient to be reclassified as basic.

The District moved to reduce the number of students with the read-aloud accommodation taking assessments for the year 2008-09. This will decrease the number of students participating in regular assessments with accommodations in both reading and math.

### Georgia

During school year 2006-07, the Georgia Department of Education implemented a phase-in plan for new mathematics performance standards. Grades 3, 4, 5, and 8 were first assessed on these performance standards during the 2007-08 school year, with an additional grade/grades being added until full implementation with grade 12 during the 2011-12 school year. Variance in the number of students participating in mathematics assessments with and without accommodations was anticipated during the phase-in of the new performance standards and their associated assessments. Performance on mathematics assessment declined significantly during the 2007-08 school year, but increased in the subsequent 2 years as both staff and students adapted to the new content requirements.

During the 2007-08 school year, Georgia implemented a new alternate assessment. Performance on the alternate mathematics assessment declined significantly during the 2007-08 school year, but increased in the subsequent 2 years as both staff and students adapted to the new content requirements.

### Guam

For SY 2008-09, Guam did not report any students who experienced medical emergencies during the assessment. Students do not participate in the assessment due to medical emergencies are categorized as absent.

Guam does not report under AYP and therefore the report of students excluded under the 1% cap does not apply.

Guam does not reside within the contiguous United States, and therefore the report of newly arrived ELL students participating in the district-wide assessment does not apply.

### Illinois

The enrollment counts provided in this report were the number of students “who were enrolled in the grade at a date as close as possible to the testing date.” In Illinois, grades 3-8 test in March, and grade 11 tests in April. Thus, Illinois provided enrollment counts based on the enrollment in each LEA during its respective testing window, which varies amongst LEAs in Illinois.

Illinois reported missing values for the following categories in the Data Transmission System since they are not applicable for the state, as described below:

- Illinois does not administer an alternate assessment based on grade-level academic achievement standards.
- Illinois does not administer an alternate assessment based on modified academic achievement standards.
- Illinois does not permit schools or parents to exempt students from assessment.
- Illinois does not permit students with disabilities to take an assessment below their grade level.
- Did not participate for other reasons.

## Kansas

The report included students who took an English-language proficiency test in place of the regular reading assessment. These numbers were tentative.

## Louisiana

Louisiana does not invalidate tests for reasons such as erasures or plagiarism. A student is given the lowest score and achievement level. Louisiana does not administer out-of-level tests. Louisiana does not allow parental opt outs.

## Maine

The changes year to year are in the 100 percent range because Maine had previously identified all children with disabilities taking the alternate assessment as participating in alternate assessments based on alternate achievement standards. In fact, the alternate assessment in Maine is based on modified achievement standards.

## Michigan

Michigan is continuing to develop an alternate assessment based on modified achievement standards. Michigan administered this assessment for the first time operationally in fall 2009.

## Micronesia

For SY 2008-09 the Federated States of Micronesia National Department of Education (FSM NDOE) did not administer the math section of the National Standardized Test (NST) to students with and without disabilities because the revisions to the math instrument were not completed in time for administration in spring 2009.

The increase on proficiency in both the regular assessment (NST) and the alternate assessment based on alternate achievement standards (AA-AAS) was due to more individualized education program (IEP) workshops conducted by the FSM states and better understanding of how to teach the FSM curriculum standards and benchmarks. In addition, the Pacific Assessment Consortium-6 project annual institute and follow-up technical assistance helped to increase the level of understanding of teachers to better teach standards and benchmarks to students with IEPs.

The increase in the proportion of students receiving accommodations was a result of more IEP workshops on how to better identify and implement instructional accommodations in classrooms and for IEP students taking the alternate assessment on alternate achievement standards outside of the classroom during the testing.

## Minnesota

The significant data changes on the Table 6 change report were because the report incorrectly grouped achievement levels for the 2008 year. Achievement level 2 was counted as Not Proficient as opposed to Proficient for that year.

Minnesota considers level 2 as Proficient for students with disabilities, which was correctly reflected on the report for the 2007 year. This was a decision made by our statewide Special Education Advisory Panel.

When regrouped to include Level 2, the changes were far less significant and were consistent with the previous year's data.

### Mississippi

Mississippi does allow for assessments to be marked as "invalid." However, these invalid assessments are dealt with by the assessment vendor and are taken out of the assessment process prior to any procedures that run calculations for participation and proficiency, including for Table 6. Any invalidations are considered to be "not-tested."

Mississippi does not give the option to test a student with an out-of-level assessment.

Mississippi does not allow parents to opt out of the assessment process.

Mississippi does not collect other reasons for non-participation.

Mississippi collects data on students who were not tested because of a medical emergency. These students are taken out of the assessment process prior to the procedures that run to calculate participation and proficiency numbers for Table 6.

The Mississippi Curriculum Test, 2nd Edition (MCT2) was first administered during the 2007-08 school year. The MCT2 consists of customized criterion-referenced reading/language arts and mathematics assessments that are fully aligned with the 2006 Mississippi Language Arts Framework Revised and the 2007 Mississippi Mathematics Framework Revised. These assessments allow Mississippi to be in compliance with the requirements of NCLB.

The new MCT2 is not only new to the state, but it is also a more rigorous test. It will take 3 to 5 years for the proficiency results to become stable.

### Missouri

No changes were made to state eligibility requirements, administration, or the scoring protocols for the alternate assessments based on alternate achievement standards from 2007-08 to 2008-09. However, the state has done extensive training over the past 2 years with staff administering the alternate assessment to assist them in understanding and applying eligibility criteria and the appropriate selection of alternate performance indicators (APIs) and assessment activities.

Any changes in the percentage of students who scored proficient on the alternate assessment were due to the individualized decisions regarding eligibility determination, selection of the APIs, and administration of the assessment activities.

### Nevada

Nevada does not provide an exemption for students who experience medical emergencies during assessments. If this situation occurs, a district may describe the circumstances as part of an appeal process when AYP designations are made.

In the 2008-09 school year, Nevada implemented the Nevada Alternate Scales of Academic Achievement-Revised version (NASAA-R). This assessment was created to address the areas of non-compliance identified in Nevada's Peer Review and to make the assessment more academic. Prior to that year, cut scores were determined using a method that looked at proficiency from an individual student-

centered model. In 2008-09, the state moved to a methodology that removed the aspect of individual student performance based on attempted benchmarks toward an expectation of proficiency of skills required for specific grade levels.

### New Jersey

New Jersey policy does not allow students to take state assessments on other than their grade level.

New Jersey also does not allow parent exemption.

In order to meet the requirements of NCLB and the U.S. Department of Education peer review, the Alternate Proficiency Assessment (APA) was revised for the 2008-09 administration. Changes included alignment of the academic content assessed to grade-level standards and modification to the dimensions on which the assessment portfolios were scored.

The 2008-09 APA administration included a set of Cumulative Progress Indicator Links that represented three levels of modification of grade-level academic content standards. Each of the three levels represents a different level of complexity in relation to grade-level skills. Teachers were required to select skills for development of APA portfolios from the New Jersey Department of education (NJDOE) links for each student's APA portfolio, whereas in prior years, teachers identified skills to be assessed on their own. A revision to the scoring was also implemented that measured student performance based on the proximity of the student's work to the grade-level standard. This was based on the links selected for the portfolio.

Student work related to the highest level links received more points than student work related to the lowest of the three levels. This increase in the rigor and scope of the assessment resulted in more partially proficient scores on the APA.

### New Mexico

New Mexico does not collect the number of students who did not take the assessment because they were absent.

New Mexico does not currently collect the number of LEP students whose English proficiency test replaced the regular reading assessment.

### New York

New York State's testing periods were as follows in the 2008-09 school year:

Grades 3 through 5 math: March 2, 2009, to March 13, 2009.

Grades 6 through 9 math: March 9, 2009, to March 20, 2009.

Grades 3 through 5 reading: Jan. 12, 2009, to Jan. 23, 2009.

High school math and reading: Feb. 2 to Feb. 13, 2009.

NYS uses the concept of student cohort. Students are assigned to a cohort based on the year in which they first enter grade 9 or, for some students with disabilities who are ungraded, the year in which they become 17 years of age. Students can take the Regents examination in math or English in January, June, or August in any year after they complete the high school subject course requirements. The state has reported in Table 6 the students' assessment results as of June 2009, which was four years after they entered the cohort.

In order to determine which students were included in the Participation Rate and Performance calculations, the state reviewed students' enrollment dates between the child count date (first Wednesday in October) and the testing time period. The rules for including students in the calculations for participation and performance under NCLB are explained in the 2009-10 SIRS Manual, posted at <http://www.emsc.nysed.gov/irts/SIRS/home.shtml>.

Upon review of the year-to-year change report, the state discovered that its 2008-09 submission of state assessment data through EDEN/EDFacts had a technical glitch that resulted in inaccurate data submission for the number of students with disabilities who received testing accommodations in 2008-09.

The state immediately submitted revised data through EDEN/EDFacts. Comparing the revised OSEP reports for 2008-09 with the 2007-08 school year data shows that there was actually an increase in the number of students with disabilities receiving testing accommodations in 2008-09 as compared to 2007-08.

NYS's trend data since 2005-06 have generally shown that more students with disabilities scored at proficient levels since the first administration of assessments in grades 3-8 in 2005-06. There is a lot of focus on state assessment results under ESEA and also under IDEA. NYS also uses state assessment results in its IDEA determinations criteria for LEAs.

Based on continued refinement of EDFacts file specifications and increased use of EDFacts data for federal program area reporting, the AYP federal caps on alternate assessments were not applied to the assessment data reported to EDFacts in 2009; therefore, students who exceeded the AYP federal cap limits were counted as passing or proficient. However, students who scored as proficient in 2008 were limited to the 2% cap proficient results from the alternate assessment based on modified achievement standards, and the 1% cap on proficient results from the alternate assessment based on alternate achievement standards when reported to EDFacts.

### North Carolina

North Carolina confirms that data on LEP students in the United States fewer than 12 months who did not fully participate in the reading assessments were collected by the State Assessment Bureau. However, there were no students in this population that had IEPs, so a zero was reflected in this data category.

### North Dakota

2007-08 was the first year that the multiple-choice alternate assessment based on modified achievement standards was administered. As teachers and IEP teams discovered its usefulness and appropriateness for students with persistent learning disabilities, more students were given this test (and correspondingly, fewer students took the regular assessment based on grade-level standards). The increase in the percentage of students who took the alternate assessment based on modified achievement standards increased by 4.6 percentage points from 2007-08 to 2008-09, but this translates to only about 250 students and did not result in an overage of the 2% rule (i.e., did not cause a participation rate above 2% in the AA-MAS).

The percentage of students with disabilities who scored proficient on the regular assessment based on grade-level standards increased 4 percentage points for math and 7.8 percentage points for reading between 2007-08 and 2008-09. It should be noted that the percentage of students without disabilities who scored proficient on the regular assessment based on grade-level standards increased as well between 2007-08 and 2008-09 for math (about 1 percentage point) and reading (about 3.5 percentage points) (albeit by smaller amounts). Furthermore, the number of children affected by this increase was about 200

more students scoring proficient in math than what would be expected given the 2007-08 proficiency rate and about 400 more students scoring proficient in reading than what would be expected. The state feels that the field is increasing the effort in teaching to the standards, increasing attention to detail in the assessment process, and providing necessary accommodations to students who have documentation for the need of accommodations in their IEPs.

### Northern Marianas

The Northern Mariana Islands Public School System's continuous implementation of the improvement activities stated in the 2008-09 Annual Performance Report (APR) for special and general education teachers has been a positive variable in improving participation and proficiency levels.

### Ohio

Prior to 2008-09, the collection of evidence used for Ohio's alternate assessment was done by hand. In the 2008-09 school year, in a cost-savings measure, scoring was completed by use of a bubble scan sheet. Mistakes made during completion of the form during its first year of implementation rendered the data unreliable. These mistakes occurred despite extensive training provided by Ohio's Office of Assessment.

Additionally, there were design problems with the score sheet itself, resulting in many assessments being considered non-scoreable. This design flaw was fixed between the 2009 administration and the 2010 administration, and Ohio did not see that issue during the most recent year.

### Oklahoma

Oklahoma does not allow an out-of-level assessment. Oklahoma does not allow parents to opt out.

The state has seen an increase in the population of students taking the alternate assessment against alternate achievement standards. The increase may be due to state legislation that makes Oklahoma a high stakes state for graduation.

The data flagged indicated that the data for 2008-09 demonstrate either more than 10 percent increase or decrease from the previous year's data. For the assessment submission, it is apparent that more students participated in an alternate assessment this year. This is due to the requirement of Academic Commitment to Education regarding graduation. Oklahoma passed legislation that required students to pass four out of seven end-of-instruction exams in order to graduate with a diploma. The state's proficient scores were also lower because 2008-09 was the year that a more rigorous scale was used for all students in the effort to have 100 percent proficient for 2013. Each year the baseline increases in an effort to meet this goal.

### Oregon

In 2008-09, several commonly used accommodations were re-categorized as allowable resources and removed from the accommodations manual. This revision to the list of accommodations resulted in a large number of students being reported in the category regular assessment on grade-level achievement standards in 2008-09. In 2007-08, these same students would have been reported in the category regular assessment on grade-level achievement standards with accommodations.

In Oregon, accommodations are defined as alterations to the test administration or student response method that do not change the intended construct of the assessment and reflect instructional approaches used in the classroom. In Oregon, all students may participate in the regular assessment on grade-level achievement standards with or without accommodations.

## Palau

The Republic of Palau does not assess grades 3, 5, and 7, and therefore reported no data. The Republic of Palau's alternate assessment is based on alternate academic achievement standards. Palau does not have alternate achievement based on grade-level achievement standards nor does it based assessment on modified standards. Palau does not collect data for students included within the NCLB 2% cap. The Republic is not bound by NCLB regulations. The category of LEP students who recently arrived in the United States does not apply to the Republic of Palau.

## Rhode Island

Rhode Island does not allow out-of-level testing. Rhode Island does not allow parental exemption. Districts cannot report absent as a reason code for an explanation of non-participation.

The data showed a decrease in the proportion of students who were proficient and an increase in the proportion of students not proficient on the RI alternate assessment based on alternate achievement standards in mathematics and reading. Scoring procedures, tools, and rubrics were improved to provide greater clarity and reduced the amount of subjectivity in scoring. This was likely the reason for the discrepancy in proficiency data.

## South Carolina

South Carolina does not allow parental exemptions or out-of-grade-level testing. Palmetto Assessment of State Standards (PASS) and High School Assessment Program (HSAP) are administered only to those grades indicated. PASS and HSAP are two different tests and currently have two different rating scales. 2008-09 was the first year of implementation for the PASS assessment, and the ratings were set Jan. 22, 2010. It has not yet been determined if the HSAP ratings will be adjusted to correspond with the PASS ratings.

In comparing assessment data from the 2007-08 to 2008-09 administrations, the Office of Exceptional Children notes a decrease in the proportion of students scoring proficient and above on the regular assessment based on grade-level achievement standards on the math assessment and on the alternate assessment based on alternate achievement standards. These decreases are a result of two overarching reasons.

First, between the 2007 and 2008 administrations, South Carolina changed the assessment instrument for grades 3 through 8. The previous assessment (Palmetto Achievement Challenge Tests) was characterized by four major proficiency levels—below basic, basic, proficient, and advanced. The replacement assessment (PASS), administered for the first time in spring 2008, has three major proficiency levels— not met, met, and exemplary. This change caused fluctuations in the numbers of students scoring proficient and above in mathematics.

The second cause to the change in proportion was the result of a technical reporting error on the meta-data file, which the OEC previously used in reporting proficiency rates. The meta-data file listed basic, proficient, and advanced as those levels used to determine proficiency for PACT as well as for the alternate assessment based on alternate achievements standards (SC-ALT). The OEC, in collaboration with other agency offices and the U.S. Department of Education, recognized this error in the summer of 2010, and subsequently the error was corrected on the meta-data and DANs files. The correct notations for proficiency on previous years' assessments are proficient and advanced only. Proficiency on the new grades 3 through 8 assessment are met and exemplary, and for the high school assessment, proficient and advanced for the high school assessment (HSAP) and for the SC-ALT.

After correcting these two areas, there was only marginal change in the proportion of students scoring proficient between the 2007 and 2008 administrations.

### South Dakota

The state moved to new reading standards and new cut scores. It was expected that proficiency rates would decrease due to the more rigorous standards. The state expects proficiency to increase in the following years as teachers and students adjust and achieve at these higher standards.

### Tennessee

Tennessee has designated ninth grade as the grade in which math assessments are most commonly administered in high school. In Tennessee, the assessment used for math NCLB (ESEA) AYP calculation is not grade specific, it is course specific. Students participate in the math NCLB AYP assessment (Algebra I) when they have completed the course, not at a specified grade level.

Tennessee has designated 10<sup>th</sup> grade as the grade in which reading assessments are most commonly administered in high school. In Tennessee, the assessment used for reading NCLB (ESEA) AYP calculation is not grade specific, it is course specific. Students participate in the reading NCLB AYP assessment (English II) when they have completed the course, not at a specified grade level.

Tennessee did not report data collected for students with disabilities who were LEP students in the United States for fewer than 12 months who did not fully participate in the statewide reading assessments. The data were collected but not included in the appropriate EDEN file. Tennessee plans to report these data for the 2009-10 school year.

### Texas

Texas does not collect data on students who did not participate in assessments due to medical emergency.

The Texas alternate assessments based on alternate achievement standards were modified after the first 2008 administration in order to comply with Title I statutory and regulatory requirements for standards and assessment systems. Changes included implementing standardized assessment tasks that may have affected student passing rates in reading during the 2008-09 school year. Subsequently, the Texas assessment program was fully approved as noted in the June 23, 2009, correspondence (accessible at <http://ritter.tea.state.tx.us/ayp/usde062309.pdf>).

Fewer students were identified as receiving special education services in 2009, and of these, fewer participated in regular testing (both with and without accommodations), and a greater number participated in the alternate assessment based on modified achievement standards. The alternative assessments, TAKS Modified (TAKS-M) and TAKS Alternate (TAKS-Alt), were first administered in 2008. After 1 year of staff development on TAKS-M and TAK-Alt, LEAs were more familiar with the alternative assessments and therefore better able to determine the most appropriate assessment for students, resulting in a significant shift from regular to alternative testing.

### Utah

Despite the provision of professional development, confusion remains about out-of-level assessments (i.e., what they are, what is allowed, and what can be done to avoid one.) Clarification of requirements as well as examples were provided to each LEA, and every year there is improvement over the previous year.

The number of students taking the math Utah alternate assessment in grades 10 through 12 is over 1 percent due to students being enrolled in courses that do not have criterion through referenced tests associated with them. The state does not have a high enough number of students taking math courses in grades 10 through 12 to offset the number of students taking the Utah alternate assessment in grades 10 through 12.

### Vermont

Vermont changed the standard used to measure performance on its alternate assessment as a result of a federal peer review. The resulting standard for proficiency is lower than previously used; previously each student was required to demonstrate proficiency in two settings and/or by two observers, while the new standard requires a single demonstration. As a result, a significantly higher proportion of students on IEPs were reported as proficient in 2008-09.

### Virgin Islands

There was a change in the administration of the alternate assessment from a checklist to a portfolio. The teachers were provided technical assistance on the process of developing and maintaining a portfolio for each child. Reoccurring technical assistance was provided to teachers on the production of the portfolio. The 68.2 percent increase in reading proficiency was due to a territory wide mandate on reading. All students in the territory are required to participate in reading classes daily. The decision on accommodations is made by the IEP team as accommodations relate to each individual student's ability.

### Virginia

The Standards of Learning (SOL) assessment program includes end-of-course assessments. These could be taken by students in grades ranging from 8<sup>th</sup> to 12<sup>th</sup> grades; all end-of-course assessments were reported as 11<sup>th</sup> grade.

1. The increase in the proportion of students who scored as proficient on the regular assessment based on grade-level standards: math and reading was a function of the annual variation in the number of students participating and efforts of school personnel to ensure the success of students with disabilities in assessments.
2. The increase in the proportion of students who scored as proficient on the alternate assessment based on grade-level standards: math and reading was a function of the annual variation in the number of students participating and efforts of school personnel to ensure the success of students with disabilities in assessments.
3. The decrease in the proportion of students who received accommodations on the regular assessments based on grade-level standards: math and reading was a function of the annual variation in the number of students participating and efforts of school personnel to ensure that students participated in assessments that were the most appropriate for them.
4. The decrease in the proportion of students who participated in regular assessments and grade-level standards was a function of the annual variation in the number of students participating in testing overall and efforts of school personnel to ensure that students participated in the assessments that were most appropriate for them.
5. The increase in the proportion of students who participated in alternate assessments on grade-level achievement standards was a function of annual variation in the number of students participating in

testing overall and efforts of school personnel to ensure that students participated in the assessments that were most appropriate.

### Washington

Washington does not have a policy that permits parents of *any* child in the public school system to opt out of the Washington Assessment of Student Learning or Washington Alternate Assessment System portfolio assessments. These are regarded and tracked as refusals.

School year 2007-08 was the first year that teachers were required to use the grade-level standards via the extensions in all of their assessment goals. The alignment of student evidence to those grade-level extensions was difficult; however with training, the teachers were on board by the following year (2008-2009).

### West Virginia

West Virginia confirmed that data on LEP students in the United States fewer than 12 months who did not fully participate in the reading assessments were collected by the State Department of Education. However, there were no students in this population who had IEPs, so a zero was reflected in this data category.

West Virginia's Performance-Based Accreditation System provides that students with significant medical emergency may be exempt by appeal from the calculation of participation rate for AYP provided the superintendent has appropriate documentation. Exemptions for medically, physically, or mentally fragile students are based on a student's physical or mental condition and may be available for students suffering from terminal illness or injuries or receiving short-term medical treatment for either a physical or psychiatric condition.

In spring 2009, students in West Virginia participated for the first time in the West Virginia Educational Standards Test – Second Edition (WESTEST 2). The WESTEST 2 is the revised statewide assessment that is aligned to measure student performance on the West Virginia 21<sup>st</sup> Century Content Standards and Objectives (CSOs). Effective July 2008, the revised WV 21<sup>st</sup> Century CSOs were designed to be more rigorous, relevant, and challenging while also incorporating the use of 21<sup>st</sup> century technology tools. Because the CSOs assessed via the WESTEST 2 required higher depth of knowledge, the WESTEST 2 is inherently a substantially more difficult standards-based assessment that is not comparable to the original WESTEST. The changes in both standards and the regular assessment were believed to account for the significant decrease in the percentage of students who scored in the proficient range and the extent to which students with disabilities accessed accommodations in reading.

## **2008-09 Dispute Resolution**

### Alabama

The state noted the data trend in 2008-09 of a decrease in written, signed state complaints, mediations not held, and resolution meetings, as well as the increase in state complaints withdrawn or dismissed. At this time, Alabama is not required to collect data related to the reasons for these trends. However, Alabama will continue to monitor comparative trends in this data.

## Alaska

Over the past 4 years, the state's count of complaints has gone from 11 to 5 to 5 and now 15, so the 15 complaints are not outside historical counts. One-third of the complaints this year were submitted by one parent who did not submit written complaints in the past. The rest of the increase is accounted for by single complaints in several districts.

## Connecticut

In April 2009, the Office of Special Education and Early Intervention Services (OSE-EIS) implemented a new single-tier state complaint system, replacing the previous two-tier system. These systemic changes partly explain the slippage.

The increase in the number of due process complaints is twofold: Connecticut received more hearing requests regarding appropriate programming of children on the autism spectrum, and the economic downturn has led to more disputes concerning high cost programs and placements.

The increase in resolution meetings and corresponding settlement agreements was associated with the implementation of an electronic data collection procedure that requires a reporting of zero counts. The previous system did not verify that a lack of submitted data corresponded with zero resolution meetings. This new process resulted in a more complete data collection.

Connecticut received a similar number of requests for mediations in 2008-09 as in previous years, although an unusually high number of these requests were received late in the school year. The timing of these requests resulted in a larger proportion of mediations being held after June 30, 2009, which accounted for the increase in mediations reported as not held or pending.

## District of Columbia

In the 2008-09 school year the District undertook an effort to promote the use of mediation as an alternative to the dispute resolution process. As part of this effort, hearing officers were cross-trained as mediators, and the SEA engaged in outreach to advocate the increased use of mediation.

## Georgia

A review of longitudinal data indicated that the total number of written signed complaints varied from year to year. The decrease in requests for federal fiscal year (FFY) 2008 showed no relationship to a specific procedural or substantive issue. Georgia will monitor the data monitored for significant changes, but trend data indicate that the number of requests in the prior year does not serve as a predictor for future complaints. The decrease in the number of signed complaints reflected the efforts of districts and parents to work cooperatively to provide the most appropriate educational placement in the student's least restrictive environment.

Mediation requests can be made at the same time that a state complaint is filed. In some situations, agreement was reached in resolution meetings or other settlement agreements, which resulted in an increase in withdrawal of requests for mediation. The state informs parties of this option when formal complaints are filed and has observed more parties involved in the state complaint process take advantage of this option to resolve concerns.

The state encourages districts and parents to use alternative resolution options and focused training on the efficiency of resolving special education disputes in a course of action that lends itself to collaboration

prior to the utilization of a formal due process hearing. Training was provided to systems and parents in utilizing the early resolution session process required by the IDEA when a due process hearing is requested.

### Hawaii

In school year 2008-09, there was a decrease in the proportion of complaints with reports issued, and an increase in the proportion fully adjudicated hearings. The State is unable to explain these changes.

### Illinois

According to Illinois, the increase in written signed complaints, the decrease in complaints withdrawn or dismissed, and the decrease in complaints pending was due to normal fluctuations from year-to-year in the number of complaints that are received by the SEA and the nature of the complaints received. There were no changes to policy or practice by the SEA that would account for these year-to-year changes.

### Indiana

Indiana created a document as a tool to aid parents in understanding the requirements of federal and state law regarding special education. The document contains an entire section (and a worksheet in the appendix) dedicated to helping parents and LEAs build constructive relationships wherein problems and disagreements are resolved BEFORE the parent has to file a complaint, mediation request, or request for due process hearing. Second, during FFY 2008, the IDOE began housing an IN\*SOURCE parent representative within the IDOE office. IN\*SOURCE is a Part B discretionary grant program that provides parent advocates for parents involved in special education evaluations and in dispute resolution. By having a parent advocate work closely with the Part B staff in Indiana, the state has found that many complaints, due process hearings, and mediations have been avoided once the IN\*SOURCE representative spoke to both parties. Likewise, although the number of resolution sessions decreased, Indiana found that many resolution sessions were rendered obsolete once the IN\*SOURCE representative was able to calm down both parties. This is because the parent advocate is very helpful in facilitating communication between the parent and the LEA when communications break down. It is, therefore, the conclusion of the state that Indiana's efforts at facilitating positive communication between parents and LEAs cut down the number of complaints that were filed in 2008. Looking at the data that were collected and reported for FFY 2009, that trend seems to be supported.

### Maryland

Maryland attributed the 225 percent increase in the number of complaints that were withdrawn or dismissed to the increase in the number of cases where the parties were successful in resolving their disputes prior to the completion of the complaint investigation timelines.

### Massachusetts

Of all reported hearing requests, only two-thirds were parent requests and hence relevant for statistical consideration vis a vis number of resolution sessions held. Moreover, the number of resolution sessions held was deemed to be underreported because most information regarding resolution sessions was gleaned from 19 day hearing officer conference calls that, for a variety of reasons, may not have been held in all cases. In addition, the back-up data collection methods continued to elicit minimal response.

Also, the decrease in resolution sessions was a result of a more exact method of gaining information on whether resolutions sessions were being held as opposed to figuring out what might be a resolution

session through subtracting known cases of other dispute resolution mechanisms. The lower numbers are more accurate.

### Michigan

In April 2009, the OSE-EIS implemented a new single-tier state complaint system, replacing the previous two-tier system. These systemic changes partly explain the slippage.

### Missouri

The increase for Missouri in the number of mediations not held (including pending) was due to the increase in the total number of mediation requests. The state had more mediation requests in 2008-09 than in the previous year, and a large number of those were pending as of June 30, 2009.

The decrease in the number of resolution meetings was related to the decrease in the total number of due process complaints filed. Due to the individual nature of due process complaints, a change year to year would generally not be considered significant.

### Nevada

In examining the year-to-year change report, the state noted an increase in complaints with reports issued. The state reported that the difference in the numbers of complaints filed and reports issued was not related to any significant changes in policies, practices, or regulations.

### New Mexico

The number of mediations held versus the number of mediation requests received varied for the following reasons: the mediation requests span over two reporting periods; the requests were received in mid-late June of 2009, but were still considered pending by June 30, 2009, because they did not take place until July of 2009; some of the mediation requests resulted in a facilitated individualized education program (FIEP); some of the mediation requests were withdrawn by the parent midway through; some were cancelled by the mediator; some of the mediations went through a due process hearing and went over the June 30, 2009, timeline.

### North Dakota

The state believes that the increase in IEP facilitations helped to resolve issues early, resulting in fewer complaints.

### Oregon

The state attributed the decrease in mediations not held (including pending) to a decrease in requests for complaint investigation and due process hearings from FFY 2007 to FFY 2008. The Oregon Department of Education (ODE) noted that the number of mediation opportunities available was related to the number of requests for complaint investigation and due process hearing requests received by the SEA.

In addition to the reduction in state complaint and due process hearing requests from FFY 2007 to FFY 2008, Oregon's requests for mediation experienced a decrease from FFY 2007 to FFY 2008. ODE believed that the reduction in mediations not held from FFY 2007 to 2008 was the result of the reduction in mediation requests over that same timeframe. An additional contributing factor to the decrease in

mediations not held for FFY 2008 was the number of scheduled mediations that were resolved locally prior to mediation during that year.

The decrease in resolution meetings was attributed to a rise in requests for mediation and LEA-level alternative dispute resolution processes related to due process requests. Seventy-four percent of all hearing requests were withdrawn by the complainant prior to the issuance of a final order. An analysis of the hearing requests for FFY 2008 showed the following results:

- 61 percent of cases were resolved through alternative dispute resolution;
- 9 percent cases were dismissed by the hearings officer;
- 13 percent cases were withdrawn by the complainant (no reason given); and,
- 17 percent cases went to a hearing and final order.

### Pennsylvania

The state attributed the increase in reported resolution sessions to ongoing education and training of hearing officers and litigants on the collection of these data. As reported by school district counsel, due to budgetary constraints, some LEAs declined to settle cases as expeditiously as they may have in prior reporting periods. While the number of fully adjudicated cases declined, more time was expended reaching settlement in cases, thus reflecting a decrease in the number of cases resolved without a hearing.

### Puerto Rico

The increase in mediations held and the decrease in mediations not held came after the agency held disclosure programs in school districts and provided training and conferences on the processes, making them easier to implement. The training focused on the efficiency of resolving special education disputes in a course of action that lends itself to collaboration before the use of a formal due process hearing. The Puerto Rico Department of Education identified agency staff to serve as resources for support in this area.

### South Dakota

South Dakota has been focusing on pre-dispute resolution with Parent Connection, Advocacy and Special Education Programs through trainings for parents and educators, the Navigator Program, and working with agency philosophy.

### Tennessee

The state attributed the decrease in complaint with reports issued to fewer complaints containing allegations based in fact and amounting to violations of the procedural provisions of the IDEA, as mandated by Tennessee Code Annotated, §49-10-604. The increase in complaints withdrawn or dismissed were complaints wherein the Department of Education had no jurisdiction over the issues presented. The complaints pending were pending due process hearings. The increase in mediation requests was due to scheduling delays by parties or mediators or the time the mediation request was received during the reporting period.\* The decrease in resolution meetings, and also in resolved without a hearing, was due to waivers of the meetings by the parties. The decrease in cases resolved without a hearing was due to fewer cases being filed.\*

\*Pursuant to Tennessee Code Annotated, Sections 49-10-605 and 49-10-606, special education mediations and due process hearings are administered by the Administrative Procedures Division of the Office of the Tennessee Secretary of State.

### Virgin Islands

The state attributed the increase in complaints with reports issued and mediations held to education workshops for parents regarding the dispute resolution system and its composition and option availability. In addition, the increase was due to distribution of parental surveys and community outreach to churches, housing communities, parochial and private schools, and the public schools system.

### West Virginia

The West Virginia Department of Education (WVDE) widely encourages the resolution of parent and district disputes. The WVDE engages in many proactive strategies to encourage problem solving and dispute resolution between parents and districts. Beginning with the initial telephone call, support staff are very responsive and direct parents to the appropriate staff person, usually the parent coordinator or the district monitor, to discuss their concerns. While formal state complaints or due process complaints are never discouraged, coordinators attempt to assist parents in resolving their issues with district personnel prior to filing a formal complaint. The coordinators offer to facilitate communication with the district director and act as a go-between in the process. However, if resolution is not possible and a formal state complaint is filed, the parent and district are encouraged to engage in early resolution (ER) to resolve the issues prior to or during the formal complaint investigation. The parties are also informed of the opportunity to request a formal mediation through WVDE. Since the initiation of the ER process in 2004, the number of complaints with letters of findings has decreased each year. The ER process has been very effective in resolving formal state complaints, as the majority of the state's special education directors are eager to mediate the issues with parents in an informal way.

### Wisconsin

The 2008-09 school year hearing request resolution meeting data are correct as reported. The number of hearing requests, and consequently, resolution meetings, was very small and fluctuation was expected from year to year. Furthermore, more hearing requests were resolved without a hearing during the 2008-2009 school year.