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Subpart A—Improving Basic Programs Operated by Local Educational Agencies

STANDARDS AND ASSESSMENTS

§ 200.1 State responsibilities for developing challenging academic standards.

(a) *Academic standards in general.* A State must develop challenging academic content and student academic achievement standards that will be used by the State, its local educational agencies (LEAs), and its schools to carry out subpart A of this part. These academic standards must—

(1) Be the same academic content and academic achievement standards that the State applies to all public schools and public school students in the State, including the public schools and public school students served under subpart A of this part, except as provided in paragraphs (d) and (e) of this section, which apply only to the State's academic achievement standards;

(2) Include the same knowledge and skills expected of all students and the same levels of achievement expected of all students, except as provided in paragraphs (d) and (e) of this section; and

(3) Include at least mathematics, reading/language arts, and, beginning in the 2005-2006 school year, science, and may include other subjects determined by the State.

(b) *Academic content standards.* (1) The challenging academic content standards required under paragraph (a) of this section must—

- (i) Specify what all students are expected to know and be able to do;
- (ii) Contain coherent and rigorous content; and
- (iii) Encourage the teaching of advanced skills.

(2) A State's academic content standards may—

- (i) Be grade specific; or,

(ii) Cover more than one grade if grade-level content expectations are provided for each of grades 3 through 8.

(3) At the high school level, the academic content standards must define the knowledge and skills that all high school students are expected to know and be able to do in at least reading/language arts, mathematics, and, beginning in the 2005-06 school year, science, irrespective of course titles or years completed.

(c) *Academic achievement standards.* (1) The challenging student academic achievement standards required under paragraph (a) of this section must—

(i) Be aligned with the State's academic content standards; and

(ii) Include the following components for each content area:

(A) Achievement levels that describe at least—

(1) Two levels of high achievement—proficient and advanced—that determine how well students are mastering the material in the State's academic content standards; and

(2) A third level of achievement—basic—to provide complete information about the progress of lower-achieving students toward mastering the proficient and advanced levels of achievement.

(B) Descriptions of the competencies associated with each achievement level.

(C) Assessment scores ("cut scores") that differentiate among the achievement levels as specified in paragraph (c)(1)(ii)(A) of this section, and a description of the rationale and procedures used to determine each achievement level.

(2) A State must develop academic achievement standards for every grade and subject assessed, even if the State's academic content standards cover more than one grade.

(3) With respect to academic achievement standards in science, a State must develop—

(i) Achievement levels and descriptions no later than the 2005-06 school year; and

(ii) Assessment scores ("cut scores") after the State has developed its science assessments but no later than the 2007-08 school year.

(d) *Alternate academic achievement standards.* For students under section 602(3) of the Individuals with Disabilities Education Act with the most significant cognitive disabilities who take an alternate assessment, a State may, through a documented and validated standards-setting process, define alternate academic achievement standards, provided those standards—

(1) Are aligned with the State's academic content standards;

(2) Promote access to the general curriculum; and

(3) Reflect professional judgment of the highest achievement standards possible.

(e) *Modified academic achievement standards.* (1) For students with disabilities under section 602(3) of the Individuals with Disabilities Education Act (IDEA) who meet the State's criteria under paragraph (e)(2) of this section, a State may define modified academic achievement standards, provided those standards—

(i) Are aligned with the State's academic content standards for the grade in which the student is enrolled;

(ii) Are challenging for eligible students, but may be less difficult than the grade-level academic achievement standards under paragraph (c) of this section;

(iii) Include at least three achievement levels; and

(iv) Are developed through a documented and validated standards-setting process that includes broad stakeholder input, including persons knowledgeable about the State's academic content standards and experienced in standards setting and special educators who are most knowledgeable about students with disabilities.

(2) In the guidelines that a State establishes under paragraph (f)(1) of this section, the State must include criteria for IEP teams to use in determining which students with disabilities are eligible to be assessed based on modified academic achievement standards. Those criteria must include, but are not limited to, each of the following:

(i) The student's disability has precluded the student from achieving grade-level proficiency, as demonstrated by such objective evidence as the student's performance on—

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(A) The State’s assessments described in § 200.2; or

(B) Other assessments that can validly document academic achievement.

(ii)(A) The student’s progress to date in response to appropriate instruction, including special education and related services designed to address the student’s individual needs, is such that, even if significant growth occurs, the IEP team is reasonably certain that the student will not achieve grade-level proficiency within the year covered by the student’s IEP.

(B) The determination of the student’s progress must be based on multiple measurements, over a period of time, that are valid for the subjects being assessed.

(iii) If the student’s IEP includes goals for a subject assessed under § 200.2, those goals must be based on the academic content standards for the grade in which the student is enrolled, consistent with paragraph (f)(2) of this section.

(f) *State guidelines.* If a State defines alternate or modified academic achievement standards under paragraph (d) or (e) of this section, the State must do the following—

(1) For students who are assessed based on either alternate or modified academic achievement standards, the State must—

(i) Establish and monitor implementation of clear and appropriate guidelines for IEP teams to apply in determining—

(A) Students with the most significant cognitive disabilities who will be assessed based on alternate academic achievement standards; and

(B) Students with disabilities who meet the criteria in paragraph (e)(2) of this section who will be assessed based on modified academic achievement standards. These students may be assessed based on modified academic achievement standards in one or more subjects for which assessments are administered under § 200.2;

(ii) Inform IEP teams that students eligible to be assessed based on alternate or modified academic achievement standards may be from any of the disability categories listed in the IDEA;

(iii) Provide to IEP teams a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on modified or alternate academic achievement standards, including any effects of State and local policies on the student’s education resulting from taking an alternate assessment based on alternate or modified academic achievement standards (such as whether only satisfactory performance on a regular assessment would qualify a student for a regular high school diploma); and

(iv) Ensure that parents of students selected to be assessed based on alternate or modified academic achievement standards under the State’s guidelines in this paragraph are informed that their child’s achievement will be measured based on alternate or modified academic achievement standards.

(2) For students who are assessed based on modified academic achievement standards, the State must—

(i) Inform IEP teams that a student may be assessed based on modified academic achievement standards in one or more subjects for which assessments are administered under § 200.2;

(ii) Establish and monitor implementation of clear and appropriate guidelines for IEP teams to apply in developing and implementing IEPs for students who are assessed based on modified academic achievement standards. These students’ IEPs must—

(A) Include IEP goals that are based on the academic content standards for the grade in which a student is enrolled; and

(B) Be designed to monitor a student’s progress in achieving the student’s standards-based goals;

(iii) Ensure that students who are assessed based on modified academic achievement standards have access to the curriculum, including instruction, for the grade in which the students are enrolled;

(iv) Ensure that students who take alternate assessments based on modified academic achievement standards are not precluded from attempting to complete the requirements, as defined by the State, for a regular high school diploma; and

(v) Ensure that each IEP team reviews annually for each subject, according to the criteria in paragraph (e)(2) of this section, its decision to assess a student based on modified academic achievement standards to ensure that those standards remain appropriate.

(g) *Subjects without standards.* If an LEA serves students under subpart A of this part in subjects for which a State has not developed academic standards, the State must describe in its State plan a strategy for ensuring that those students are taught the same knowledge and skills and held to the same expectations in those subjects as are all other students.

(h) *Other subjects with standards.* If a State has developed standards in other subjects for all students, the State must apply those standards to students participating under subpart A of this part.

(Authority: 20 U.S.C. 6311(b)(1))

(Approved by the Office of Management and Budget under control number 1810-0576)

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§ 200.2 State responsibilities for assessment.

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

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

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

(b) The assessment system required under this section must meet the following requirements:

(1) Be the same assessment system used to measure the achievement of all

students in accordance with § 200.3 or § 200.4.

(2) Be designed to be valid and accessible for use by the widest possible range of students, including students with disabilities and students with limited English proficiency.

(3)(i) Be aligned with the State's challenging academic content and student academic achievement standards; and

(ii) Provide coherent information about student attainment of those standards.

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

(ii) Be consistent with relevant, nationally recognized professional and technical standards.

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

(i) Of adequate technical quality for each purpose required under the Act; and

(ii) Consistent with the requirements of this section.

(6) Be administered in accordance with the timeline in § 200.5.

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

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

(ii) Multiple assessments within a subject area.

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

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

(ii) That require a student to analyze a passage of text or to express opinions.

(9) Provide for participation in the assessment system of all students in