

(A) An explanation of how the State's minimum group size meets the requirements of paragraph (a)(2)(i) of this section;

(B) An explanation of how other components of the State's definition of adequate yearly progress (AYP), in addition to the State's minimum group size, interact to affect the statistical reliability of the data and to ensure the maximum inclusion of all students and student subgroups in § 200.13(b)(7)(ii); and

(C) Information regarding the number and percentage of students and student subgroups in § 200.13(b)(7)(ii) excluded from school-level accountability determinations.

(iii) Each State must submit a revised Consolidated State Application Accountability Workbook in accordance with paragraph (a)(2)(ii) of this section to the Department for technical assistance and peer review under the process established by the Secretary under section 1111(e)(2) of the Act in time for any changes to be in effect for AYP determinations based on school year 2009–2010 assessment results.

(iv) Beginning with AYP decisions that are based on the assessments administered in the 2007–08 school year, a State may not establish a different minimum number of students under paragraph (a)(2)(i) of this section for separate subgroups under § 200.13(b)(7)(ii) or for the school as a whole.

(b) *Personally identifiable information.* (1) A State may not use disaggregated data for one or more subgroups under § 200.2(b)(10) to report achievement results under section 1111(h) of the Act if the results would reveal personally identifiable information about an individual student.

(2) To determine whether disaggregated results would reveal personally identifiable information about an individual student, a State must apply the requirements under section 444(b) of the General Education Provisions Act (the Family Educational Rights and Privacy Act of 1974).

(3) Nothing in paragraph (b)(1) or (b)(2) of this section shall be construed to abrogate the responsibility of States to implement the requirements of sec-

tion 1116(a) of the Act for determining whether States, LEAs, and schools are making AYP on the basis of the performance of each subgroup under section 1111(b)(2)(C)(v) of the Act.

(4) Each State shall include in its State plan, and each State and LEA shall implement, appropriate strategies to protect the privacy of individual students in reporting achievement results under section 1111(h) of the Act and in determining whether schools and LEAs are making AYP on the basis of disaggregated subgroups.

(c) *Inclusion of subgroups in assessments.* If a subgroup under § 200.2(b)(10) is not of sufficient size to produce statistically reliable results, the State must still include students in that subgroup in its State assessments under § 200.2.

(d) *Disaggregation at the LEA and State.* If the number of students in a subgroup is not statistically reliable at the school level, the State must include those students in disaggregations at each level for which the number of students is statistically reliable—*e.g.*, the LEA or State level.

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

(Authority: 20 U.S.C. 6311(b)(3); 1232g)

[67 FR 45042, July 5, 2002, as amended at 67 FR 71715, Dec. 2, 2002; 72 FR 17779, Apr. 9, 2007; 73 FR 64507, Oct. 29, 2008; 73 FR 78636, Dec. 23, 2008]

§ 200.8 Assessment reports.

(a) *Student reports.* A State's academic assessment system must produce individual student interpretive, descriptive, and diagnostic reports that—

(1)(i) Include information regarding achievement on the academic assessments under § 200.2 measured against the State's student academic achievement standards; and

(ii) Help parents, teachers, and principals to understand and address the specific academic needs of students; and

(2) Are provided to parents, teachers, and principals—

(i) As soon as is practicable after the assessment is given;

(ii) In an understandable and uniform format, including an alternative format (*e.g.*, Braille or large print) upon request; and

§ 200.9

(iii) To the extent practicable, in a language that parents can understand.

(b) *Itemized score analyses for LEAs and schools.* (1) A State's academic assessment system must produce and report to LEAs and schools itemized score analyses, consistent with § 200.2(b)(4), so that parents, teachers, principals, and administrators can interpret and address the specific academic needs of students.

(2) The requirement to report itemized score analyses in paragraph (b)(1) of this section does not require the release of test items.

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

[67 FR 45042, July 5, 2002]

§ 200.9 Deferral of assessments.

(a) A State may defer the start or suspend the administration of the assessments required under § 200.2 that were not required prior to January 8, 2002 for one year for each year for which the amount appropriated for State assessment grants under section 6113(a)(2) of the Act is less than the trigger amount in section 1111(b)(3)(D) of the Act.

(b) A State may not cease the development of the assessments referred to in paragraph (a) of this section even if sufficient funds are not appropriated under section 6113(a)(2) of the Act.

(Authority: 20 U.S.C. 6311(b)(3); 7301b(a)(2))

[67 FR 45043, July 5, 2002]

§ 200.10 Applicability of a State's academic assessments to private schools and private school students.

(a) Nothing in § 200.1 or § 200.2 requires a private school, including a private school whose students receive services under subpart A of this part, to participate in a State's academic assessment system.

(b)(1) If an LEA provides services to eligible private school students under subpart A of this part, the LEA must, through timely consultation with appropriate private school officials, determine how services to eligible private school students will be academically assessed and how the results of that assessment will be used to improve those services.

(2) The assessments referred to in paragraph (b)(1) of this section may be

34 CFR Ch. II (7–1–10 Edition)

the State's academic assessments under § 200.2 or other appropriate academic assessments.

(Authority: 20 U.S.C. 6320, 7886(a))

[67 FR 45043, July 5, 2002]

PARTICIPATION IN NATIONAL ASSESSMENT OF EDUCATIONAL PROGRESS (NAEP)

§ 200.11 Participation in NAEP.

(a) *State participation.* Beginning in the 2002–2003 school year, each State that receives funds under subpart A of this part must participate in biennial State academic assessments of fourth and eighth grade reading and mathematics under the State National Assessment of Educational Progress (NAEP), if the Department pays the costs of administering those assessments.

(b) *Local participation.* In accordance with section 1112(b)(1)(F) of the Elementary and Secondary Education Act of 1965 (ESEA), and notwithstanding section 411(d)(1) of the National Education Statistics Act of 1994, an LEA that receives funds under subpart A of this part must participate, if selected, in the State-NAEP assessments referred to in paragraph (a) of this section.

(c) *Report cards.* Each State and LEA must report on its annual State and LEA report card, respectively, the most recent available academic achievement results in grades four and eight on the State's NAEP reading and mathematics assessments under paragraph (a) of this section. The report cards must include—

(1) The percentage of students at each achievement level reported on the NAEP in the aggregate and, for State report cards, disaggregated for each subgroup described in § 200.13(b)(7)(ii); and

(2) The participation rates for students with disabilities and for limited English proficient students.

(Approved by the Office of Management and Budget under control number 1810–0581)

(Authority: 20 U.S.C. 6311(c)(2); 6312(b)(1)(F), 9010(d)(1))

[67 FR 71715, Dec. 2, 2002, as amended at 73 FR 64508, Oct. 29, 2008]