

## § 200.4

## 34 CFR Ch. II (7–1–23 Edition)

it serves that the LEA received approval and will use such locally selected, nationally recognized high school academic assessment instead of the statewide academic assessment under § 200.5(a)(1)(i)(B) and (a)(1)(ii)(C), as applicable.

(4) In each subsequent year following approval in which the LEA elects to administer a locally selected, nationally recognized high school academic assessment, the LEA must notify—

(i) The State of its intention to continue administering such assessment; and

(ii) Parents of which assessment the LEA will administer to students to meet the requirements of § 200.5(a)(1)(i)(B) and (a)(1)(ii)(C), as applicable, at the beginning of the school year.

(5) The notices to parents under this paragraph (c) of this section must be consistent with § 200.2(e).

(d) *Definition.* “Nationally recognized high school academic assessment” means an assessment of high school students’ knowledge and skills that is administered in multiple States and is recognized by institutions of higher education in those or other States for the purposes of entrance or placement into courses in postsecondary education or training programs.

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

(Authority: 20 U.S.C. 1221e–3, 3474, 6311(b)(2)(H), 6312(a), 6571, 7845, and 7918; 29 U.S.C. 794; 42 U.S.C. 2000d–1)

[81 FR 88932, Dec. 8, 2016]

### § 200.4 State law exception.

(a) If a State provides satisfactory evidence to the Secretary that neither the State educational agency (SEA) nor any other State government official, agency, or entity has sufficient authority under State law to adopt academic content standards, student academic achievement standards, and academic assessments applicable to all students enrolled in the State’s public schools, the State may meet the requirements under §§ 200.1 and 200.2 by—

(1) Adopting academic standards and academic assessments that meet the requirements of §§ 200.1 and 200.2 on a Statewide basis and limiting their ap-

plicability to students served under subpart A of this part; or

(2) Adopting and implementing policies that ensure that each LEA in the State that receives funds under subpart A of this part will adopt academic standards and academic assessments aligned with those standards that—

(i) Meet the requirements in §§ 200.1 and 200.2; and

(ii) Are applicable to all students served by the LEA.

(b) A State that qualifies under paragraph (a) of this section must—

(1) Establish technical criteria for evaluating whether each LEA’s—

(i) Academic content and student academic achievement standards meet the requirements in § 200.1; and

(ii) Academic assessments meet the requirements in § 200.2, particularly regarding validity and reliability, technical quality, alignment with the LEA’s academic standards, and inclusion of all students in the grades assessed;

(2) Review and approve each LEA’s academic standards and academic assessments to ensure that they—

(i) Meet or exceed the State’s technical criteria; and

(ii) For purposes of this section—

(A) Are equivalent to one another in their content coverage, difficulty, and quality;

(B) Have comparable validity and reliability with respect to groups of students described in section 1111(c)(2) of the Act; and

(C) Provide unbiased, rational, and consistent determinations of the annual progress of schools within the State; and

(3) Be able to aggregate, with confidence, data from local assessments to make accountability determinations under section 1111(c) of the Act.

(Authority: 20 U.S.C. 1221e–3, 3474, 6311(b)(2)(E) and 6571)

[67 FR 45041, July 5, 2002, as amended at 81 FR 88933, Dec. 8, 2016]

### § 200.5 Assessment administration.

(a) *Frequency.* (1) A State must administer the assessments required under § 200.2 annually as follows:

(i) With respect to both the reading/language arts and mathematics assessments—

(A) In each of grades 3 through 8; and  
 (B) At least once in grades 9 through 12.

(ii) With respect to science assessments, not less than one time during each of—

- (A) Grades 3 through 5;
- (B) Grades 6 through 9; and
- (C) Grades 10 through 12.

(2) A State must administer the English language proficiency assessment required under § 200.6(h) annually to all English learners in schools served by the State in all grades in which there are English learners, kindergarten through grade 12.

(3) With respect to any other subject chosen by a State, the State may administer the assessments at its discretion.

(b) *Middle school mathematics exception.* A State that administers an end-of-course mathematics assessment to meet the requirements under paragraph (a)(1)(i)(B) of this section may exempt an eighth-grade student from the mathematics assessment typically administered in eighth grade under paragraph (a)(1)(i)(A) of this section if—

(1) The student instead takes the end-of-course mathematics assessment the State administers to high school students under paragraph (a)(1)(i)(B) of this section;

(2) The student's performance on the high school assessment is used in the year in which the student takes the assessment for purposes of measuring academic achievement under section 1111(c)(4)(B)(i) of the Act and participation in assessments under section 1111(c)(4)(E) of the Act;

(3) In high school—

(i) The student takes a State-administered end-of-course assessment or nationally recognized high school academic assessment as defined in § 200.3(d) in mathematics that—

(A) Is more advanced than the assessment the State administers under paragraph (a)(1)(i)(B) of this section; and

(B) Provides for appropriate accommodations consistent with § 200.6(b) and (f); and

(ii) The student's performance on the more advanced mathematics assessment is used for purposes of measuring

academic achievement under section 1111(c)(4)(B)(i) of the Act and participation in assessments under section 1111(c)(4)(E) of the Act; and

(4) The State describes in its State plan, with regard to this exception, its strategies to provide all students in the State the opportunity to be prepared for and to take advanced mathematics coursework in middle school.

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

(Authority: 20 U.S.C. 1221e-3, 3474, 6311(b)(2)(B)(v), (b)(2)(C), and (b)(2)(G), and 6571)

[81 FR 88933, Dec. 8, 2016]

#### § 200.6 Inclusion of all students.

(a) *Students with disabilities in general.*

(1) A State must include students with disabilities in all assessments under section 1111(b)(2) of the Act, with appropriate accommodations consistent with paragraphs (b), (f)(1), and (h)(4) of this section. For purposes of this section, students with disabilities, collectively, are—

(i) All children with disabilities as defined under section 602(3) of the IDEA;

(ii) Students with the most significant cognitive disabilities who are identified from among the students in paragraph (a)(1)(i) of this section; and

(iii) Students with disabilities covered under other acts, including—

(A) Section 504 of the Rehabilitation Act of 1973, as amended; and

(B) Title II of the ADA, as amended.

(2)(i) Except as provided in paragraph (a)(2)(ii)(B) of this section, a student with a disability under paragraph (a)(1) of this section must be assessed with an assessment aligned with the challenging State academic standards for the grade in which the student is enrolled.

(ii) A student with the most significant cognitive disabilities under paragraph (a)(1)(ii) of this section may be assessed with—

(A) The general assessment under paragraph (a)(2)(i) of this section; or

(B) If a State has adopted alternate academic achievement standards permitted under section 1111(b)(1)(E) of