

§ 462.1

AUTHORITY: 29 U.S.C. 3292, *et seq.*, unless otherwise noted.

SOURCE: 73 FR 2315, Jan. 14, 2008, unless otherwise noted.

Subpart A—General

§ 462.1 What is the scope of this part?

The regulations in this part establish the—

(a) Procedures the Secretary uses to determine the suitability of standardized tests for use in the National Reporting System for Adult Education (NRS) to measure educational gain of participants in an adult education program required to report under the NRS; and

(b) Procedures States and local eligible providers must follow when measuring educational gain for use in the NRS.

(Authority: 29 U.S.C. 3292)

[73 FR 2315, Jan. 14, 2008, as amended at 81 FR 55551, Aug. 19, 2016]

§ 462.2 What regulations apply?

The following regulations apply to this part:

(a) The Education Department General Administrative Regulations (EDGAR) as follows:

(1) 34 CFR part 76 (State-Administered Programs).

(2) 34 CFR part 77 (Definitions that Apply to Department Regulations).

(3) 34 CFR part 79 (Intergovernmental Review of Department of Education Programs and Activities).

(4) 34 CFR part 81 (General Education Provisions Act—Enforcement).

(5) 34 CFR part 82 (New Restrictions on Lobbying).

(6) 34 CFR part 84 (Governmentwide Requirements for Drug-Free Workplace (Financial Assistance)).

(7) 34 CFR part 86 (Drug and Alcohol Abuse Prevention).

(8) 34 CFR part 97 (Protection of Human Subjects).

(9) 34 CFR part 98 (Student Rights in Research, Experimental Programs, and Testing).

(10) 34 CFR part 99 (Family Educational Rights and Privacy).

(b) The regulations in this part 462.

(c)(1) 2 CFR part 180 (OMB Guidelines to Agencies on Governmentwide Debar-

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ment and Suspension (Nonprocurement)), as adopted at 2 CFR part 3485; and

(2) 2 CFR part 200 (Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards), as adopted at 2 CFR part 3474.

(Authority: 29 U.S.C. 3292)

[81 FR 55551, Aug. 19, 2016]

§ 462.3 What definitions apply?

(a) *Definitions in the Adult Education and Family Literacy Act (Act)*. The following terms used in these regulations are defined in section 203 of the Adult Education and Family Literacy Act, 20 U.S.C. 3292 (Act):

Adult education,
Eligible provider,
Individual of limited English proficiency,
Individual with a disability,
Literacy.

(b) *Other definitions*. The following definitions also apply to this part:

Adult basic education (ABE) means instruction designed for an adult whose educational functioning level is equivalent to a particular ABE literacy level listed in the NRS educational functioning level table in the Guidelines.

Adult education population means individuals—

(1) Who have attained 16 years of age;

(2) Who are not enrolled or required to be enrolled in secondary school under State law; and

(3) Who—

(i) Are basic skills deficient;

(ii) Do not have a secondary school diploma or its recognized equivalent, and have not achieved an equivalent level of education; or

(iii) Are English language learners.

Adult secondary education (ASE) means instruction designed for an adult whose educational functioning level is equivalent to a particular ASE literacy level listed in the NRS educational functioning level table in the Guidelines.

Content domains, content specifications, or NRS skill areas mean, for the purpose of the NRS, reading, writing, and speaking the English language, mathematics, problem solving, English language acquisition, and other literacy skills as defined by the Secretary.

Educational functioning levels mean the ABE, ASE, and ESL literacy levels, as provided in the Guidelines, that describe a set of skills and competencies that students demonstrate in the NRS skill areas.

English as a Second Language (ESL) means instruction designed for an adult whose educational functioning level is equivalent to a particular ESL English language proficiency level listed in the NRS educational functioning level table in the Guidelines.

Guidelines means the *Implementation Guidelines: Measures and Methods for the National Reporting System for Adult Education* (OMB Control Number: 1830-0027) (also known as NRS Implementation Guidelines) posted on the Internet at: www.nrsweb.org.

Local eligible provider means an “eligible provider” as defined in the Act that operates an adult education program that is required to report under the NRS.

State means “State” and “Outlying area” as defined in the Act.

Test means a standardized test, assessment, or instrument that has a formal protocol on how it is to be administered. These protocols include, for example, the use of parallel, equated forms, testing conditions, time allowed for the test, standardized scoring, and the amount of instructional time a student needs before post-testing. Violation of these protocols often invalidates the test scores. Tests are not limited to traditional paper and pencil (or computer-administered) instruments for which forms are constructed prior to administration to examinees. Tests may also include adaptive tests that use computerized algorithms for selecting and administering items in real time; however, for such instruments, the size of the item pool and the method of item selection must ensure negligible overlap in items across pre- and post-testing.

Test administrator means an individual who is trained to administer tests the Secretary determines to be suitable under this part.

Test publisher means an entity, individual, organization, or agency that owns a registered copyright of a test or

is licensed by the copyright holder to sell or distribute a test.

(Authority: 29 U.S.C. 3292, *et seq.*, unless otherwise noted)

[73 FR 2315, Jan. 14, 2008, as amended at 81 FR 55551, Aug. 19, 2016]

§ 462.4 What are the transition rules for using tests to measure educational gain for the National Reporting System for Adult Education (NRS)?

A State or an eligible provider may continue to measure educational gain for the NRS using tests that the Secretary has identified in the most recent notice published in the FEDERAL REGISTER until the Secretary announces through a notice published in the FEDERAL REGISTER a date by which such tests may no longer be used.

(Authority: 29 U.S.C. 3292)

[81 FR 55551, Aug. 19, 2016]

Subpart B—What Process Does the Secretary Use To Review the Suitability of Tests for Use in the NRS?

§ 462.10 How does the Secretary review tests?

(a) The Secretary only reviews tests under this part that are submitted by a test publisher.

(b) A test publisher that wishes to have the suitability of its test determined by the Secretary under this part must submit an application to the Secretary, in the manner the Secretary may prescribe, by October 1, 2016, April 1, 2017, October 1, 2017, April 1, 2018, October 1, 2018, and by October 1 of each year thereafter.

(Authority: 29 U.S.C. 3292)

[73 FR 2315, Jan. 14, 2008, as amended at 81 FR 55552, Aug. 19, 2016]

§ 462.11 What must an application contain?

(a) *Application content and format.* In order for the Secretary to determine whether a standardized test is suitable for measuring the gains of participants in an adult education program required to report under the NRS, a test publisher must—