



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

December 5, 2008

Dear Chief State School Officer:

Thank you for your leadership and dedication in working toward the *No Child Left Behind Act (NCLB)* goal of all students achieving proficiency. The hard work you and the educators in your state put forth daily to achieve this goal has resulted in meaningful improvements in student achievement. I write you at this time to provide important information regarding the process for submitting 2008–09 amendments to your accountability workbooks.

As you know, the U.S. Department of Education (Department) permits states to revise their accountability workbooks to reflect changes in the strategies and programs they employ to improve student achievement. Prior to implementing any revisions, a state must submit its proposed amendments to the Department for review and approval. This year, states may once again submit revisions to their accountability workbooks. However, since the Department will conduct a full peer review of each state's accountability workbook in summer and fall 2009 as required by the October 2008 Title I regulations, the Department will not consider significant changes to accountability workbooks for the 2008–09 school year. I encourage you to consider submitting only amendments necessary to (1) bring your state's accountability workbook into compliance with current law and regulations or (2) accurately reflect current practice in your state's assessment and accountability systems. Requests for amendments for the 2008–09 school year are due to the Department no later than **January 15, 2009**. This deadline will enable the Department to make timely decisions and allow states to meet their timelines for accountability determinations under Title I while adhering to the requirement that states not make accountability determinations using a plan that is not fully approved.

The Department posts on its website each state's accountability workbook for the explicit purpose of making the state's accountability system under Title I transparent to all stakeholders and the public. Therefore, I encourage you to review and, if necessary, amend your state's accountability workbook to ensure that it accurately reflects actual practice in your state, particularly as follows:

- Explain any changes resulting from your state's implementation of the Limited English Proficient (LEP) 2006 regulations (see <http://www.ed.gov/legislation/FedRegister/finrule/2006-3/091306a.html>), including whether your state (1) exempts recently arrived LEP students from one administration of the reading/language arts assessment during those students' first 12 months attending schools in the United States and (2) includes formerly LEP students in the LEP subgroup in making adequate yearly progress (AYP) determinations for up to two years after the students no longer meet the state's definition for LEP.
- Describe any changes resulting from your state's implementation of alternate assessments based on modified academic achievement standards. Please also note whether your state includes the scores of students who were formerly categorized as students with disabilities in AYP calculations for the students with disabilities subgroup. (See Part C of the Department's guidance on *Additional Title I Provisions Included in the Regulations Package on Modified Academic Achievement Standards* at <http://www.ed.gov/policy/elsec/guid/040907-reg.doc>.)

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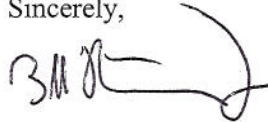
The Department of Education's mission is to promote student achievement and preparation for global competitiveness by fostering educational excellence and ensuring equal access.

new, your state may not yet have developed modified academic achievement standards or alternate assessments based on them. Therefore, consistent with 34 C.F.R. §200.20(g), the Department is offering transition flexibility for states currently developing modified academic achievement standards and alternate assessments based on them. In order to receive Department approval for this flexibility in 2008–09, your state must meet the eligibility requirements described in the enclosed document. The document also describes the flexibility options available to you at this time. If your state would like to apply for this transition flexibility in the 2008–09 school year, you must submit an amendment to your accountability workbook providing recent data in support of the request, even if you were previously approved to implement this transition flexibility.

Please note that if your state has already developed an AA-MAAS, you must submit evidence of the development of the assessment, consistent with our peer review guidance (<http://www.ed.gov/policy/elsec/guid/saaprguidance.pdf>) before scores from it may be included in AYP determinations. If you are submitting evidence prior to the first administration of your state's AA-MAAS, consult item 3 in the enclosed document, which describes the types of evidence we expect a state to submit for peer review.

Once again, I commend you for the work you have done and continue to do on behalf of our nation's students. The Department looks forward to continuing to work closely with you as we implement the new Title I regulations published on October 29 and Title III final interpretations published on October 17, as well as those issued in the last few years. Details on implementing the new Title I regulations will be available soon. Please contact Patrick Rooney (Patrick.Rooney@ed.gov or 202-205-8831) of my staff if you have any questions or concerns.

Sincerely,



Zollie Stevenson, Jr., Ph.D.
Director, Student Achievement and School
Accountability

Enclosure

cc: Governors
State Accountability/Assessment/Title I directors

ATTACHMENT: 2008–09 Transition Flexibility Options and Eligibility Criteria

To give states sufficient time to develop modified academic achievement standards and implement approved alternate assessments based on them, the Department, consistent with 34 C.F.R. §200.20(g), will offer transition flexibility for the 2008–09 school year. States wishing to take advantage of this flexibility may choose either of the following two options.

Transition Flexibility Options

Option 1: This option applies only to schools and districts that did not make AYP based solely on the students with disabilities subgroup scores. This option allows states to make a mathematical adjustment to the proficiency rate of that subgroup in order to provide additional credit to these schools or districts.

In general, eligible states may calculate a proxy to determine the percentage of special education students (as defined in the Individuals with Disabilities Education Act) that is equivalent to 2.0 percent of all students assessed. This proxy will then be added to the percentage of students with disabilities who are proficient and advanced. This adjusted percent proficient is what a state may use to reexamine if the school made AYP for the 2008–09 school year. A step-by-step explanation and an example follow.

1. Calculate what 2.0 percent of the total number of students assessed within the state equates to solely within the students with disabilities subgroup by dividing 2.0 by the percentage of students who have disabilities. This number, which will be a constant for every school, will be the basis for flexibility in school AYP determinations.
2. Identify all schools that did not make AYP solely on the basis of the students with disabilities subgroup and the proficiency rate of those students in each school.
3. Calculate the adjusted percent proficient for each school's students with disabilities subgroup. This adjustment is equal to the sum of the actual percent of proficient scores of this subgroup plus the proxy percent calculated in step 1 above.
4. Compare this adjusted percent proficient for each school identified in step 2 to the state's annual measurable objective (AMO). This comparison must be conducted without the use of confidence intervals or other statistical treatments.
 - a. If the adjusted proficiency rate for the school's students with disabilities subgroup meets or exceeds the state's AMO, the school may be considered to have made AYP for the 2008–09 school year.
 - b. If the adjusted proficiency rate for the school's students with disabilities subgroup does not meet or exceed the state's AMO, the school did not make AYP for the 2008–09 school year.
5. This process should be followed for reading and mathematics separately and also repeated at the district level, as needed.
6. The actual percentage of students proficient must be reported to parents and the public; the state may also report the adjusted percentage of students proficient.

Example

Assume that the state identifies 12 percent of its students as those with disabilities; 2.0 percent of the total number of students assessed equates to 16.67 percent of students with disabilities (2 percent divided by 12 percent). Using traditional rounding rules, the state may round this proxy to the nearest whole number; in this instance the proxy would be 17 percent. The state's AMO for reading/language arts is 65 percent.

1. Five schools did not make AYP solely on the basis of their students with disabilities subgroups in reading (Column 1). Actual proficiency rates are in Column 2.
2. Assign to each school's proficiency rate for its students with disabilities subgroup the 17 percent proxy amount (Column 3).

3. Calculate the adjusted percent proficient for each school's students with disabilities subgroup (Column 4).
4. Compare this adjusted proficiency rate to the state's AMO (Column 5). This comparison must be conducted without the use of confidence intervals or other statistical treatments.
 - o Roosevelt and Washington made AYP for the 2008–09 school year.
 - o Lincoln, Adams, and Coolidge Schools did not make AYP for this school year.
5. School report cards should reflect the unadjusted proficiency rate (Column 2), but may also note the adjusted AYP decision (Column 5).
6. Repeat the process for mathematics, and also at the district level as needed.

Table 1. Example of Transition Flexibility, Option 1, State AMO = 65%

(1) School	(2) Actual students with disabilities % proficient	(3) Statewide adjustment as % students with disabilities	(4) Adjusted proficiency % (Col 2 + Col 3)	(5) Adjusted AYP decision
Roosevelt	54	17	71	Yes
Washington	49	17	66	Yes
Lincoln	45	17	62	No
Adams	37	17	54	No
Coolidge	16	17	33	No

Option 2. States may offer their own ideas for the Secretary's consideration.

States may also offer their own ideas for the Department's consideration. When the Secretary offered this transition flexibility for the 2004–05 AYP determinations, several states developed a different idea and were approved to use that proposal (Colorado, Maryland, and Massachusetts). In the intervening years, Maryland and Massachusetts have continued to implement this option. You may wish to review these proposals to see if any are appropriate for your state. See Element 5.3 of the states' accountability workbooks at www.ed.gov/admins/lead/account/stateplans03/index.html.

Eligibility Criteria

The Secretary will make determinations about a state's eligibility for transition flexibility on a year-by-year basis. To qualify for the flexibility in 2008–09, a state must:

1. **Meet the following eligibility requirements:**
 - A. **95 percent participation rate for students with disabilities.** Statewide assessment participation rates for students with disabilities, for purposes of measuring AYP, must be at or above 95 percent.
 - B. **Compliance with IDEA.** States with IDEA Special Conditions may not be eligible if such conditions cannot be resolved by July 1, 2009.
 - C. **Appropriate accommodations.** Appropriate accommodations must be available for students with disabilities.

- D. Improving student achievement.** Each state must provide information on actions it has taken to raise achievement for students with disabilities or narrow the achievement gap and evidence that such efforts are improving student achievement.
- 2. Have an approved assessment system.** The state's reading/language arts and mathematics assessments, including all alternate assessments based on alternate academic achievement standards, must meet all statutory and regulatory requirements.
- 3. Provide a timeline of activities for 2007–08.** The timeline should illustrate significant progress toward development and implementation of an AA-MAAS. This timeline should reflect completion of key activities and milestones that would indicate such progress has been made and include dates for and evidence of the following:
- A.** The Request for Proposals to which contractors responded to bid on development of the AA-MAAS (include information on how many contractors responded, the process for selecting the contractor, and the start date for the contract);
 - B.** A signed contract that includes a detailed work scope and list of deliverables;
 - C.** Documentation that describes the process by which the modified academic achievement standards were developed and illustrates the alignment of the modified academic achievement standards with the content standards;
 - D.** Evidence of the development of test blueprints that show (a) the relationship between the general assessment and assessment based on modified academic achievement standards and (b) the extent that test items on the AA-MAAS align with and assess the full range of content contained in the state's academic content standards;
 - E.** A detailed outline or rough draft of the technical manual that will be developed based on both pilot and full administration of the alternate assessment; and
 - F.** Evidence of the development of manuals that provide guidance and training for Individualized Education Program (IEP) teams, including information on guidelines for determining which students are eligible for an AA-MAAS and standards-based IEP goals.
- 4. Provide a timeline of activities for 2008–09.** The timeline should delineate steps toward completion and implementation of an AA-MAAS. This timeline should be continuous with the 2007–08 timeline and illustrate clearly the steps being taken in 2008–09 and when the AA-MAAS will be fully operational.