

§ 200.11

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 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.

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

[67 FR 71715, Dec. 2, 2002]

STATE ACCOUNTABILITY SYSTEM

§ 200.12 Single State accountability system.

(a)(1) Each State must demonstrate in its State plan that the State has developed and is implementing, beginning with the 2002–2003 school year, a single, statewide accountability system.

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(2) The State's accountability system must be effective in ensuring that all public elementary and secondary schools and LEAs in the State make adequate yearly progress (AYP) as defined in §§ 200.13 through 200.20.

(b) The State's accountability system must—

(1) Be based on the State's academic standards under § 200.1, academic assessments under § 200.2, and other academic indicators under § 200.19;

(2) Take into account the achievement of all public elementary and secondary school students;

(3) Be the same accountability system the State uses for all public elementary and secondary schools and all LEAs in the State; and

(4) Include sanctions and rewards that the State will use to hold public elementary and secondary schools and LEAs accountable for student achievement and for making AYP, except that the State is not required to subject schools and LEAs not participating under subpart A of this part to the requirements of section 1116 of the ESEA. (Approved by the Office of Management and Budget under control number 1810–0576)

(Authority: 20 U.S.C. 6311(b)(2)(A))

[67 FR 71715, Dec. 2, 2002]

ADEQUATE YEARLY PROGRESS (AYP)

§ 200.13 Adequate yearly progress in general.

(a) Each State must demonstrate in its State plan what constitutes AYP of the State and of all public schools and LEAs in the State—

(1) Toward enabling all public school students to meet the State's student academic achievement standards; while

(2) Working toward the goal of narrowing the achievement gaps in the State, its LEAs, and its public schools.

(b) A State must define adequate yearly progress, in accordance with §§ 200.14 through 200.20, in a manner that—

(1) Applies the same high standards of academic achievement to all public school students in the State, except as provided in paragraph (c) of this section;

(2) Is statistically valid and reliable;

(3) Results in continuous and substantial academic improvement for all students;

(4) Measures the progress of all public schools, LEAs, and the State based primarily on the State's academic assessment system under § 200.2;

(5) Measures progress separately for reading/language arts and for mathematics;

(6) Is the same for all public schools and LEAs in the State; and

(7) Consistent with § 200.7, applies the same annual measurable objectives under § 200.18 separately to each of the following:

(i) All public school students.

(ii) Students in each of the following subgroups:

(A) Economically disadvantaged students.

(B) Students from major racial and ethnic groups.

(C) Students with disabilities, as defined in section 9101(5) of the ESEA.

(D) Students with limited English proficiency, as defined in section 9101(25) of the ESEA.

(c)(1) In calculating AYP for schools, LEAs, and the State, a State must, consistent with § 200.7(a), include the scores of all students with disabilities.

(2) With respect to scores based on alternate or modified academic achievement standards, a State may include—

(i) The proficient and advanced scores of students with the most significant cognitive disabilities based on the alternate academic achievement standards described in § 200.1(d), provided that the number of those scores at the LEA and at the State levels, separately, does not exceed 1.0 percent of all students in the grades assessed in reading/language arts and in mathematics; and

(ii) The proficient and advanced scores of students with disabilities based on the modified academic achievement standards described in § 200.1(e)(1), provided that the number of those scores at the LEA and at the State levels, separately, does not exceed 2.0 percent of all students in the grades assessed in reading/language arts and in mathematics.

(3) A State's or LEA's number of proficient and advanced scores of students with disabilities based on the modified

academic achievement standards described in § 200.1(e)(1) may exceed 2.0 percent of all students in the grades assessed if the number of proficient and advanced scores based on the alternate academic achievement standards described in § 200.1(d) is less than 1.0 percent, provided the number of proficient and advanced scores based on modified and alternate academic achievement standards combined does not exceed 3.0 percent of all students in the grades assessed.

(4) A State may not request from the Secretary an exception permitting it to exceed the caps on proficient and advanced scores based on alternate or modified academic achievement standards under paragraph (c)(2) and (3) of this section.

(5)(i) A State may grant an exception to an LEA permitting it to exceed the 1.0 percent cap on proficient and advanced scores based on the alternate academic achievement standards described in paragraph (c)(2)(i) of this section only if—

(A) The LEA demonstrates that the incidence of students with the most significant cognitive disabilities exceeds 1.0 percent of all students in the combined grades assessed;

(B) The LEA explains why the incidence of such students exceeds 1.0 percent of all students in the combined grades assessed, such as school, community, or health programs in the LEA that have drawn large numbers of families of students with the most significant cognitive disabilities, or that the LEA has such a small overall student population that it would take only a few students with such disabilities to exceed the 1.0 percent cap; and

(C) The LEA documents that it is implementing the State's guidelines under § 200.1(f).

(ii) The State must review regularly whether an LEA's exception to the 1.0 percent cap is still warranted.

(6) A State may not grant an exception to an LEA to exceed the 2.0 percent cap on proficient and advanced scores based on modified academic achievement standards under paragraph (c)(2)(ii) of this section, except as provided in paragraph (c)(3) of this section.

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(7) In calculating AYP, if the percentage of proficient and advanced scores based on alternate or modified academic achievement standards under § 200.1(d) or (e) exceeds the caps in paragraph (c) of this section at the State or LEA level, the State must do the following:

- (i) Consistent with § 200.7(a), include all scores based on alternate and modified academic achievement standards.
- (ii) Count as non-proficient the proficient and advanced scores that exceed the caps in paragraph (c) of this section.
- (iii) Determine which proficient and advanced scores to count as non-proficient in schools and LEAs responsible for students who are assessed based on alternate or modified academic achievement standards.
- (iv) Include non-proficient scores that exceed the caps in paragraph (c) of this section in each applicable sub-

group at the school, LEA, and State level.

(v) Ensure that parents of a child who is assessed based on alternate or modified academic achievement standards are informed of the actual academic achievement levels of their child.

(d) The State must establish a way to hold accountable schools in which no grade level is assessed under the State's academic assessment system (*e.g.*, K–2 schools), although the State is not required to administer a formal assessment to meet this requirement.

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

(Authority: 20 U.S.C. 6311(b)(2))

APPENDIX TO § 200.13—WHEN MAY A STATE OR LEA EXCEED THE 1% AND 2% CAPS?

The following table provides a summary of the circumstances in which a State or LEA may exceed the 1% and 2% caps described in § 200.13.

WHEN MAY A STATE OR LEA EXCEED THE 1% AND 2% CAPS?

	Alternate academic achievement standards—1% cap	Modified academic achievement standards—2% cap	Alternate and modified academic achievement standards—3%
State	Not permitted	Only if State is below 1% cap, but cannot exceed 3%.	Not permitted.
LEA	Only if granted an exception by the SEA.	Only if LEA is below 1% cap, but cannot exceed 3%.	Only if granted an exception to the 1% cap by the SEA, and only by the amount of the exception.

[67 FR 71716, Dec. 2, 2002; 68 FR 1008, Jan. 8, 2003, as amended at 68 FR 68703, Dec. 9, 2003; 72 FR 17779, Apr. 9, 2007]

§ 200.14 Components of Adequate Yearly Progress.

A State's definition of AYP must include all of the following:

- (a) A timeline in accordance with § 200.15.
- (b) Starting points in accordance with § 200.16.
- (c) Intermediate goals in accordance with § 200.17.
- (d) Annual measurable objectives in accordance with § 200.18.
- (e) Other academic indicators in accordance with § 200.19.

(Authority: 20 U.S.C. 6311(b)(2))

[67 FR 71716, Dec. 2, 2002]

§ 200.15 Timeline.

(a) Each State must establish a timeline for making AYP that ensures that, not later than the 2013–2014 school year, all students in each group described in § 200.13(b)(7) will meet or exceed the State's proficient level of academic achievement.

(b) Notwithstanding subsequent changes a State may make to its academic assessment system or its definition of AYP under §§ 200.13 through 200.20, the State may not extend its timeline for all students to reach proficiency beyond the 2013–2014 school year.

(Authority: 20 U.S.C. 6311(b)(2))

[67 FR 71716, Dec. 2, 2002]