



UNITED STATES DEPARTMENT OF EDUCATION

OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

THE ASSISTANT SECRETARY

DEC 2 2008

Dear Chief State School Officer,

I am writing to provide updated guidance with respect to performance indexes and their role in accountability decisions under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left Behind Act of 2001 (NCLB). A performance index awards a school partial credit for students whose achievement improves, even though they may not yet be proficient, and can be included in determining the adequate yearly progress (AYP) of the school. The Department continues to believe that performance indexes can be a meaningful part of a state's accountability system, and that providing states flexibility to implement performance indexes helps states achieve the goals of NCLB. It is important, however, that we ensure that all performance indexes are structured in a way that enables a state to comply with the accountability requirements in section 1111(b)(2) of the ESEA and the Title I regulations and that they make good educational sense.

As you know, on October 29, the Department issued final regulations under Title I addressing a number of important issues, including accountability. Specifically, under 34 C.F.R. §200.7(a)(2)(ii) and (iii), each state will need to submit a revised Accountability Workbook to the Department for technical assistance and peer review in time for any changes to take effect for AYP determinations based on school year 2009–10 assessment results. That submission must include an explanation of the state's minimum group size as well as an explanation of how other components of the state's definition of AYP, such as performance indexes, interact to affect the statistical reliability of the state's AYP determinations while maximizing inclusion of all students and student subgroups. Thus, in submitting its revised Accountability Workbook, each of the 12 states currently implementing a performance index in determining AYP, as well as any state interested in doing so, will need to demonstrate, among other things, that its index conforms to all statutory requirements.

In September 2007, I met with representatives from all 12 states currently using a performance index and in September 2008 I made performance indexes one of the first topics for the newly created National Technical Advisory Council (NTAC) to discuss. I am taking this opportunity to ensure that all states are aware of the statutory requirements that govern the inclusion of performance indexes in determining AYP.

A state that uses a performance index to determine AYP must demonstrate, in its revised Accountability Workbook, that its index complies with the following statutory requirements governing AYP:

- The state must incorporate its performance index in its annual measurable objectives (AMOs) and use those AMOs to determine AYP for all districts, schools, and subgroups in the state. [1111(b)(2)(B), (C)(iv) and (v), (G)(ii)]

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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.

Thus, in determining AYP, the performance index is applied **in lieu of** the percentage of students scoring proficient and above, rather than **as an additional method** of determining AYP.

Please note that a state may use the same AMOs for all tested grades (3-8 and high school), separate AMOs for each grade span (e.g., 3-5, 6-8, and high school), or separate AMOs for each grade. In all cases, however, the same set of AMOs must apply to all districts, schools, and subgroups in the state.

- The state's starting points, intermediate goals, and AMOs based on its performance index must be set in accordance with the provisions in section 1111(b)(2) of the ESEA. [1111(b)(2)(E), (G), (H)]

For example, a state could rank its schools by the weighted average of index points in each school (the total aggregate points divided by the number of students assessed) and identify the school at the 20th percentile in the state to determine the AYP starting point.

- The state's AMOs that are based on the state's performance index must result in 100 percent of students being proficient or advanced by 2013–14. [1111(b)(2)(F)]
- The state's performance index must assign the same index value to students scoring proficient and students scoring advanced, because AYP is based on the percentage of students meeting or exceeding the state's proficient level of achievement. [1111(b)(2)(E), (F), (G)(iii)]
- The state must calculate AYP, using its performance index, separately for reading/language arts and mathematics. [1111(b)(2)(G)(i)]
- The state must include the achievement of all students in calculating AYP using its performance index, including students with disabilities who take an alternate assessment based on alternate academic achievement standards or modified academic achievement standards. [1111(b)(2)(C)(i), (iii)]
- The state must ensure that its performance index is statistically valid and reliable as well as technically sound. [1111(b)(2)(C)(ii)]

The state may assign points to each academic achievement level or may split an existing achievement level to provide partial credit to students in each sub-achievement level for some or all of the assessments included in its accountability determinations (subject to the requirement above that extra points not be given to students scoring above proficient). For example, a state might split its "Basic" achievement level into "Basic – High" and "Basic – Low," provided the state is able to demonstrate the validity and reliability of such sub-achievement levels. Sub-achievement levels should represent clearly defined and delineated levels of achievement to which students may be validly and reliably assigned. If a state

chooses to split its achievement levels for the purpose of its performance index, the state must submit information supporting the creation of those levels. For example, the state could provide evidence regarding the process used to split achievement levels for any reading/language arts and mathematics assessments for which it splits achievement levels, including alternate assessments based on alternate academic achievement standards or modified academic achievement standards for students with disabilities. The state also could provide information related to the validity and reliability of sub-achievement levels, such as the conditional standard error of measurement.

- The state and its districts must report on their annual report cards student achievement data and AYP by subgroup, school, and district, in the aggregate and disaggregated by the levels of performance used in the index, including sub-achievement levels, if applicable. [1111(h)(1)(C)(i),(ii), (2)(B)] States and districts must ensure that all levels of achievement are reported to the public in an understandable and uniform format. [1111(h)(1)(B)(ii), (2)(E)]. Setting clear achievement levels (including sub-achievement levels) with separate and distinct points that assign meaningful credit will facilitate clear and concise reporting to the public.

Any state that would like to include a performance index for the first time in AYP determinations for the 2008–09 school year must demonstrate to the Department, in its revised Accountability Workbook, that its index conforms to the statutory requirements outlined above. The 12 states that currently use a performance index must also include this demonstration, among other things, in their revised Workbooks, consistent with 34 C.F.R. §200.7(a)(2)(ii), (iii), which must be done in advance of AYP determinations based on the school year 2009–10 assessment results.

In demonstrating the performance index meets all statutory requirements, I encourage every state with a performance index to submit, as part of its Accountability Workbook, a rationale for its performance index, including information on how implementation of the index maintains or improves the integrity of the state’s established accountability system. In addition, every state with a performance index must provide data showing the number and percentage of students statewide, for the total population and each relevant subgroup, at each academic achievement level used in the performance index for the two most recent school years. We will provide additional information on the timeline for submitting revised Accountability Workbooks in the near future.

Please be advised that the information in this letter represents the Department’s current thinking on how states can ensure their performance indexes conform to the statutory requirements that govern AYP determinations. It does not create or confer any rights for or on any person. This letter does not impose any requirements beyond those required to comply with applicable law and regulations. If you are interested in commenting on the content of this letter, please e-mail us your comments at oes@ed.gov with the subject “Performance Index” or write to us at the following address: Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, S.W., Washington, D.C. 20202, Attn: Patrick Rooney.

Once again, I appreciate the efforts states are making to continue to develop and improve their accountability systems. Strong state accountability systems are a fundamental component of NCLB and help provide useful information about the progress we are making in ensuring every child is given the skills and knowledge necessary to succeed in college and the workforce. Please contact Patrick Rooney (Patrick.Rooney@ed.gov) of my staff if you have any questions. As always, we remain available to provide technical assistance, whenever necessary.

Sincerely,

A handwritten signature in black ink, appearing to read "Kerri L. Briggs". The signature is written in a cursive style with a large initial "K".

Kerri L. Briggs, Ph.D.

cc: Gene Wilhoit
Governors