



A Union of Professionals

New Regulations on Assessing Students with Disabilities

The U.S. Department of Education has released final regulations under the Individual with Disabilities Education Act (IDEA) and No Child Left Behind Act (NCLB) providing additional flexibility to states to more accurately measure achievement of select categories of students with disabilities.

Under the regulations, states may develop academic achievement standards and alternate assessments based on those standards. Modified achievement standards are intended for a small population of students whose disability has prevented them from achieving grade-level proficiency and who likely will not reach grade-level proficiency within the same timeframe as other students. Until now, these students had to take either the grade-level assessment, which was often too difficult, or an alternate assessment for students with the most significant cognitive disabilities, which may have been too easy. Neither option provided an accurate assessment of these students' capabilities.

States may now develop alternate assessments based on modified academic standards. States may count the proficient and advanced test scores on these alternate assessments for up to **2.0 percent** of all students assessed when calculating adequate yearly progress (AYP) under NCLB. Unchanged is the provision that allows up to 1 percent of students with severe cognitive disabilities to take alternate assessments aligned to alternate achievement standards when calculating AYP.

With the addition of the final regulations on modified academic achievement standards under NCLB, students with disabilities may be assessed in the following ways (unless otherwise noted, the proficient and advanced scores for all students being appropriately assessed may be counted towards AYP):

- General state assessment
- General state assessment with appropriate accommodations
- Alternate assessment based on grade-level academic achievement standards
- Alternate assessment based on modified academic achievement standards (up to 2 percent of all proficient and advanced scores may count towards AYP)
- Alternate assessment based on alternate academic achievement standards (up to 1 percent of all proficient and advanced scores may count towards AYP)

While the modified academic achievement standards is a step in the right direction, AFT believes the goals for providing appropriate assessments for students with disabilities and including those scores in the accountability system has not yet been met. The AFT continues to advocate that states be allowed to pilot progress measures that use students' growth in achievement in addition to their performance on standardized assessments. Measuring achievement growth of students with disabilities is essential for students with disabilities, as academic progress of some students with disabilities is not reflected on standardized assessments.

Additional information related to these regulations provided by the U.S. Department of Education includes:

- Federal funds are available to help states develop assessments based on modified academic achievement standards. \$21.1 million is available to help states develop assessments based on modified academic achievement standards. Competitive funds will be available as follows:
 - \$7.6 million under the Title I Enhanced Assessment Grants program that states can use to develop these new assessments.
 - \$13.5 million under the IDEA General Supervision Enhancement Grants program. A notice of proposed priority has been published in the Federal register for public comment at <http://www.ed.gov/legislation/FedRegister/proprule/2007-1/033007d.html>
- States may also use funds from Title I, Title VI State Assessment Grants, and the IDEA to develop these assessments.
- All students may take state assessments more than once, and states can use their highest score for AYP calculations.
- Flexibility within the 1 and 2 percent options as long as the number of students taking alternate assessments do not exceed 3 percent. For example, a state may have .5 percent of its students take alternate assessments for students with significant disabilities and 2.5 percent take the alternate assessments based on modified academic achievement standards.
- The scores of students with disabilities who have moved out of special education can be counted in the special education subgroup for two years, thus giving a more accurate picture of the academic progress of these students.
- States that opt to develop alternate assessments based on modified achievement standards have two years to develop the assessments. The two-year transition period can begin at any time.
- The subgroup size for students with disabilities is the same as that for other subgroups, ensuring that students with disabilities are included in accountability measures.

Non-regulatory guidance has been released simultaneously with the new regulations to provide further details and information and is accessible at <http://www.ed.gov/policy/speced/guid/nclb/twopercent.doc>

In addition a document providing information to parents of students with disabilities is available for download at <http://www.ed.gov/parents/needs/speced/twopercent.pdf>

The Department will host a meeting with interested states in Washington, D.C., in July 2007 to discuss the development of alternate assessments based on modified academic achievement standards. AFT staff will be attending this meeting.

AFT staff will continue to monitor information as it is made available and work with other national organizations, disability advocacy groups, and vested stakeholders to ensure educators who support students with disabilities are represented in ongoing dialogue with federal policymakers. If you have additional questions, please contact Lisa Thomas 800/233-1138, ext. 4561 or lthomas@aft.org

For all other special education related issues, please visit www.aft.org/teachers and click on the Special Education Complaint Form or click on the link below: <http://leadernet.aft.org/surveymaker/take/survey.cfm?id=855586ae-c26e-4392-c2fc-5f01eee117f0>. The purpose of the complaint form is to assist national staff gathering data and monitoring trends in special education implementation at the local level.