

Eligibility, Family-centered education, Grant programs—education, Indians education, Institutions of higher education, Local educational agencies, Nonprofit private agencies, Private schools, Public agencies, Reporting and recordkeeping requirements, State-administered programs, State educational agencies.

Dated: March 14, 2003.

Rod Paige,

Secretary of Education.

The Secretary proposes to amend part 200 of title 34 of the Code of Federal Regulations as follows:

PART 200—TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED

1. The authority citation for part 200 continues to read as follows:

Authority: 20 U.S.C. 6301 through 6578, unless otherwise noted.

2. In § 200.1, redesignate paragraphs (d) and (e) as (e) and (f), revise paragraph (a)(1), and add paragraph (d) to read as follows:

§ 200.1 State responsibilities for developing challenging academic standards.

(a) * * *

(1) Be the same academic standards that the State applies to all public schools and public school students in the State, including the public schools and public school students served under subpart A of this part, except as provided in paragraph (d) of this section;

* * * * *

(d) *Alternate academic achievement standards.* (1) For students with the most significant cognitive disabilities who take an alternate assessment, a State may, through a documented and validated standards-setting process, define achievement standards that—

(i) Are aligned with the State's academic content standards; and

(ii) Reflect professional judgment of the highest learning standards possible for those students.

(2) For purposes of subpart A of this part, the term “students with the most

significant cognitive disabilities” means students who have been identified as students with disabilities under the Individuals with Disabilities Education Act and whose intellectual functioning and adaptive behavior are three or more standard deviations below the mean.

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3. In § 200.6, revise paragraph (a)(2)(ii) and add paragraph (a)(2)(iii) to read as follows:

§ 200.6 Inclusion of all students.

* * * * *

(a) * * *

(2) * * *

(ii)(A) Alternate assessments must yield results for the grade in which the student is enrolled in at least reading/ language arts, mathematics, and, beginning in the 2007–2008 school year, science, except as provided in paragraph (a)(2)(ii)(B) of this section.

(B) For students with the most significant cognitive disabilities, alternate assessments may yield results that measure the achievement of those students against the achievement standards the State has defined under § 200.1(d).

(iii) The State must—

(A) Establish guidelines to ensure that the alternate academic achievement standards defined under § 200.1(d) are used only for students who have the most significant cognitive disabilities; and

(B) Require schools and LEAs to report separately the percentage of students with disabilities taking alternate assessments measured against—

(1) The alternate academic achievement standards defined under § 200.1(d); and

(2) The academic achievement standards defined under § 200.1(c).

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4. In § 200.13, redesignate paragraph (c) as paragraph (d), revise the introductory text of paragraph (b) and paragraph (b)(1), and add paragraph (c) to read as follows:

§ 200.13 Adequate yearly progress in general.

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

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

* * * * *

(c)(1) In calculating adequate yearly progress for schools, a State may use the alternate academic achievement standards in § 200.1(d) for students with the most significant cognitive disabilities provided that the percentage of those students at the LEA and at the State levels, separately, does not exceed 1.0 percent of all students in the grades assessed.

(2) If an LEA or State can document that the incidence of students with the most significant cognitive disabilities in the LEA or the State exceeds the limitation in paragraph (c)(1) of this section, and that circumstances exist that could explain the higher percentages such as a school, community, or health program in the area that has drawn families of students with the most significant cognitive disabilities, or such a small overall student population that only a very few students with the most significant cognitive disabilities exceed the 1.0 percent limitation, the LEA may request from the State, or the State may request from the Secretary, respectively, an exception to exceed the 1.0 percent limitation.

(3) In calculating adequate yearly progress for the State and each LEA, the State must apply grade-level academic content and achievement standards established under § 200.1(b) and (c) to assessment results of any students taking alternate assessments that exceed the percentage limitations under paragraphs (c)(1) and (2) of this section.

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