

Colorado Department of Education (CDE)
Comments on
Federal Register/Vol. 81, No. 132/Monday, July 11, 2016/Proposed Rules

Department of Education
34 CFR Parts 200
RIN 1810-AB32
[\[Docket ID ED-2016-OESE-0053\]](#)

The Colorado Department of Education (CDE) submitted the following comments on the [U.S. Department of Education \(USDE\), Notice of Proposed Rule-Making \(NPRM\), Title I-Improving the Academic Achievement of the Disadvantaged-Academic Assessments, \[Docket ID ED-2016-OESE-0053\], published on July 11, 2016.](#)

§ 200.2(a), which identifies the required subject areas in which a State must administer yearly student academic assessments

Comment: Both the current and proposed regulations make a significant change from the legislation in the identification of the required subject areas in which a State must administer yearly student academic assessments.

Recommendation: Make a universal edit to “reading/language arts” to return to the legislative language of “reading or language arts” to ensure that there is no potential expansion of requirements beyond those found in legislation (ex., requiring speaking and listening assessments).

§ 200.3(a)(2), an LEA would be required to administer the same locally selected, nationally recognized academic assessment to all high school students in the LEA

Comment: If the nationally-selected high school assessment is deemed to meet comparability requirements to be included as an option to the State assessment, the Department is strongly encouraged to consider allowing the same flexibility at the LEA level. This potentially could also meet the goals of reduced testing and eliminating double testing by allowing decisions and choices to be made about appropriate testing options at the student level.

Recommendation: If a placement exam based on college course expectations meets the State’s criteria for comparability, a student already taking that exam for placement and credit purposes should not have to also take the State assessment.

First, proposed § 200.5(b) would make clear that only a State that administers an end-of-course mathematics assessment to meet the high school assessment requirement may offer the exception to eighth-grade students, consistent with section 1111(b)(2)(C)(i). The exception would not apply in a State that administers a general mathematics assessment in, for example, eleventh grade. Second, proposed § 200.5(b)(3)(i) would permit a student who received the exception in eighth grade to take in high school either a State-administered end-of-course mathematics assessment or a nationally recognized high school academic assessment in mathematics, as defined in proposed § 200.3(d), that is more advanced than the assessment the student took in eighth grade.

Comment: Seventh graders may also be engaged in advanced math coursework.

Recommendation: As long as there are two additional more advanced assessments available for students to take in future years (one for students to take as 8th graders and one to take in high school), extend the flexibility to 7th grade.

Proposed § 200.6(c) would incorporate new statutory requirements regarding alternate assessments aligned with alternate academic achievement standards for students with the most significant cognitive disabilities, including the cap of 1.0 percent of students assessed in a subject in a school year at the State level, as well as clarify other statutory provisions.

Recommendation: To ensure inappropriate pressure is not applied to IEP teams based on the state cap of 1.0 percent, increased emphasis should be added to the rules directing IEP teams to follow State participation guidelines when making determinations regarding which assessment a student will take, rather than being influenced by the cap.

(4) If a State anticipates that it will exceed the cap under paragraph (c)(2) of this section with respect to any subject for which assessments are administered under § 200.2(a)(1) in any school year, the State may request that the Secretary waive the cap for the relevant subject, pursuant to section 8401 of the Act, for one year. Such request must—

(i) Be submitted at least 90 days prior to the start of the State's first testing window

Comment: The waivers and their extensive documentation requirements are unduly burdensome. The submission requirement 90 days prior to the start of the

testing window is untenable. Recommendation: revise so that the documentation requirements are based on prior year's alternate assessment participation rates.