

### **Topic: Academic Assessments**

#### **(A) Introduction**

The Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA), requires States to implement a set of high-quality student academic assessments in mathematics, reading or language arts, and science. States may also implement such assessments in any other subject chosen by the State.

#### **(B) Requirements**

These assessments (with exceptions regarding alternate assessments for students with the most significant cognitive disabilities) must be used to measure the achievement of and be administered to all public elementary school and secondary school students in the State. In addition, the assessments must:

- be aligned with the challenging State academic standards, and provide coherent and timely information about student attainment of such standards and whether the student is performing at the student's grade level;
- be used for purposes for which such assessments are valid and reliable, consistent with relevant, nationally recognized professional and technical testing standards, objectively measure academic achievement, knowledge, and skills, and be tests that do not evaluate or assess personal or family beliefs and attitudes, or publicly disclose personally identifiable information; and
- be of adequate technical quality for each purpose required by the ESSA and consistent with its requirements of Section 1111 (20 U.S.C. 6311), the evidence of which shall be made public, including on the website of the State educational agency.

In the case of mathematics and reading or language arts, assessments must be administered in grades 3 through 8, and at least once in grades 9 through 12. Regarding science, the assessments must be administered not less than one time during grades 3 through 5; grades 6 through 9; and grades 10 through 12. For any other subject chosen by the State, the assessments shall be administered at the discretion of the State.

The assessments must involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding, which may include measures of student academic growth and may be partially delivered in the form of portfolios, projects, or extended performance tasks. The assessments must provide for:

- the participation in such assessments of all students;
- the appropriate accommodations, such as interoperability with, and ability to use, assistive technology, for children with disabilities (as defined in section 602(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1401(3)), including students with the most significant cognitive disabilities, and students with a disability who are provided accommodations under an Act other than the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), necessary to measure the academic achievement of such children relative to the challenging State academic standards or alternate academic achievement standards; and
- the inclusion of English learners, who shall be assessed in a valid and reliable manner and provided appropriate accommodations on assessments administered to such students under this paragraph, including, to the extent practicable, assessments in the language and form most likely to yield accurate data on what such students know and can do in academic content areas, until such students have achieved English language proficiency.

At the discretion of the State, the assessments may be administered through a single summative assessment or be administered through multiple state-wide interim assessments during the course of the academic year that result in a single summative score that provides valid, reliable, and transparent information on student achievement or growth.

States shall provide assessments using tests in English of reading or language arts of any student, apart from the requirement to provide appropriate accommodations on assessments administered to English learners, who has attended school in the United States (not including the Commonwealth of Puerto Rico) for 3 or more consecutive school years. However, if the local educational agency determines, on a case-by-case individual basis, that academic assessments in another language or form would likely yield more accurate and reliable information on what such student knows and can do, the local educational agency may make a determination to assess such student in the appropriate language other than English for a period that does not exceed 2 additional consecutive years, provided that such student has not yet reached a level of English language proficiency sufficient to yield valid and reliable information on what such student knows and can do on tests (written in English) of reading or language arts.<sup>1</sup>

States also must produce individual student interpretive, descriptive, and diagnostic reports, regarding achievement on such assessments that allow parents, teachers, principals, and other school leaders to understand and address the specific academic needs of students. The reports must be provided to parents, teachers, and school leaders as soon as is practicable after the assessment is given, in an understandable and uniform format, and to the extent practicable, in a language that parents can understand. Specifically, the reports will enable results to be disaggregated within each State, local educational agency, and school by:

- each major racial and ethnic group;
- economically disadvantaged students as compared to students who are not economically disadvantaged;
- children with disabilities as compared to children without disabilities;
- English proficiency status;
- gender; and
- migrant status.

However, such disaggregation shall not be required in the case of a State, local educational agency, or a school in which the number of students in a subgroup is insufficient to yield statistically reliable information or the results would reveal personally identifiable information about an individual student. Assessments must also enable itemized score analyses to be produced and reported, to local educational agencies and schools, so that parents, teachers, principals, other school leaders, and administrators can interpret and address the specific academic needs of students as indicated by the students' achievement on assessment items; and must be developed, to the extent practicable, using the principles of universal design for learning.

### **(C) Exception for Advanced Mathematics in Middle School**

A State may exempt any 8th grade student from the assessment in mathematics if:

- such student takes the end-of-course assessment the State typically administers to meet the requirements in mathematics;
- such student's achievement on such end-of-course assessment is used in lieu of such student's achievement on the required mathematics assessment, and such student is counted as participating in the assessment; and
- such student, in high school, takes a mathematics assessment that:
  - is any end-of-course assessment or other assessment that is more advanced than the assessment taken by such student; and

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<sup>1</sup> BIE-funded schools have the responsibility of both Local Education Agencies (LEA) and schools, in accordance with the Agreement between the U.S. Department of Education and the U.S. Department of the Interior (DOI)-Bureau of Indian Education (BIE), signed 12/3/2012, as amended 7/10/2017.

- shall be used to measure such student's academic achievement as measured by proficiency on the annual assessments, and, for public high schools, student growth, as the discretion of the State.

**(D) Alternate Assessments for Students with the Most Significant Cognitive Disabilities**

Alternate Assessments Aligned with Alternate Academic Achievement Standards. A State may provide for alternate assessments aligned with the challenging State academic standards and alternate academic achievement standards for students with the most significant cognitive disabilities, if the State:

- ensures that, for each subject, the total number of students assessed in such subject using the alternate assessments does not exceed 1 percent of the total number of all students in the State who are assessed in such subject;
- ensures that the parents of such students are clearly informed, as part of the process for developing the individualized education program (as defined in section 614(d)(1)(A) of the Individuals with Disabilities Education Act (20 U.S.C. 1414(d)(1)(A)):
  - that their child's academic achievement will be measured based on such alternate standards; and
  - how participation in such assessments may delay or otherwise affect the student from completing the requirements for a regular high school diploma;
- promotes, consistent with the Individuals with Disabilities Education Act (20 U.S.C. 1400 *et seq.*), the involvement and progress of students with the most significant cognitive disabilities in the general education curriculum;
- describes in the State plan the steps the State has taken to incorporate universal design for learning, to the extent feasible, in alternate assessments;
- describes in the State plan that general and special education teachers, and other appropriate staff:
  - know how to administer the alternate assessments; and
  - make appropriate use of accommodations for students with disabilities on all assessments required under this paragraph;
- develops, disseminates information on, and promotes the use of appropriate accommodations to increase the number of students with significant cognitive disabilities:
  - participating in academic instruction and assessments for the grade level in which the student is enrolled; and
  - who are tested based on challenging State academic standards for the grade level in which the student is enrolled; and
- does not preclude a student with the most significant cognitive disabilities who takes an alternate assessment based on alternate academic achievement standards from attempting to complete the requirements for a regular high school diploma.

Special Rules

Responsibility under IDEA. School individualized education program (IEP) teams shall determine when a child with a significant cognitive disability shall participate in an alternate assessment aligned with the alternate academic achievement standards, consistent with the Individuals with Disabilities Education Act (IDEA).

Prohibition on Local Cap. ESSA does not impose on any local educational agency a cap on the percentage of students administered an alternate assessment, except that a local educational agency exceeding the 1 percent of total number of all students cap applied to the State shall submit information to the State educational agency justifying the need to exceed such cap.

State Support. A State shall provide appropriate oversight of any local educational agency that is required to submit information to the State regarding the prohibition local cap.

Waiver Authority. This subparagraph shall be subject to the waiver authority under section 8401.

**(E) State Authority**

If a State educational agency provides evidence that neither the State educational agency nor any other State government official, agency, or entity has sufficient authority, under State law, to adopt challenging State academic standards, and academic assessments aligned with such standards, which will be applicable to all students enrolled in the State’s public elementary schools and secondary schools, then the State educational agency may meet the requirements of this subsection by:

- adopting academic standards and academic assessments that meet the requirements of this subsection, on a statewide basis, and limiting their applicability to students served under this part; or
- adopting and implementing policies that ensure that each local educational agency in the State that receives grants under this part will adopt academic content and student academic achievement standards, and academic assessments aligned with such standards, which:
  - meet all of the criteria in this subsection and any regulations regarding such standards and assessments that the Secretary may publish; and
  - are applicable to all students served by each such local educational agency.

**(F) Language Assessments**

Each State plan shall identify the languages other than English that are present to a significant extent in the participating student population of the State and indicate the languages for which annual student academic assessments are not available and are needed.

The State shall make every effort to develop such assessments and may request assistance from the Secretary if linguistically accessible academic assessment measures are needed. Upon request, the Secretary shall assist with the identification of appropriate academic assessment measures in the needed languages, but shall not mandate a specific academic assessment or mode of instruction.

**(G) Assessments of English Language Proficiency**

Each State plan shall demonstrate that local educational agencies in the State will provide for an annual assessment of English proficiency of all English learners in the schools served by the State educational agency.

Alignment. The English language proficiency assessments shall be aligned with the State’s English language proficiency standards.

**(H) Locally Selected Assessment**

ESSA does not prohibit a local educational agency from administering a locally-selected assessment in lieu of the State-designed academic assessment, if the local educational agency selects a nationally-recognized high school academic assessment that has been approved for use by the State.

State Technical Criteria. To allow for State approval of nationally-recognized high school academic assessments that are available for local selection, a State educational agency shall establish technical criteria to meet the requirements governing the administration of mathematics, reading or language arts, science, or any other subject chosen by the state in the required grades.

State Approval. If a State educational agency chooses to make a nationally-recognized high school assessment available for selection by a local educational agency, which has not already been approved, such State educational agency shall:

- conduct a review of the assessment to determine if such assessment meets or exceeds the technical criteria established by the State educational agency;

- submit evidence that demonstrates such assessment meets the requirements; and
- after fulfilling the requirements, approve such assessment for selection and use by any local educational agency that requests to use such assessment.

Local Educational Agency Option.

Local Educational Agency – If a local educational agency chooses to submit a nationally-recognized high school academic assessment to the State educational agency, subject to the approval process to determine if such assessment fulfills the requirements, the State educational agency may approve the use of such assessment.

State Educational Agency – Upon such approval, the State educational agency shall approve the use of such assessment in any other local educational agency in the State that subsequently requests to use such assessment without repeating the process.

Requirements. To receive approval from the State educational agency, a locally-selected assessment shall:

- be aligned to the State’s academic content standards, address the depth and breadth of such standards, and be equivalent in its content coverage, difficulty, and quality to the State-designed assessments under this paragraph (and may be more rigorous in its content coverage and difficulty than such State-designed assessments);
- provide comparable, valid, and reliable data on academic achievement, as compared to the State-designed assessments, for all students and for each subgroup of students as defined above, with results expressed in terms consistent with the State’s academic achievement standards, among all local educational agencies within the State;
- meet the requirements for the implementation of high-quality assessments in mathematics, reading or language arts, and science including technical criteria, except the requirement not to prohibit a locally-selected assessment; and
- provide unbiased, rational, and consistent differentiation between schools within the State to meet the specified requirements.

Parental Notification. A local educational agency shall notify the parents of high school students served by the local educational agency of its request to the State educational agency for approval to administer a locally-selected assessment; and upon approval, and at the beginning of each subsequent school year during which the locally selected assessment will be administered, that the local educational agency will be administering a different assessment than the State-designed assessments.

**(I) Deferral**

A State may defer the commencement, or suspend the administration, but not cease the development, of the assessments described herein, for 1 year for each year for which the amount appropriated for grants under Part B—State Assessment Grants is less than \$369,100,000.

**(J) Adaptive Assessments**

Generally. A State retains the right to develop and administer computer adaptive assessments as the assessments, provided the computer adaptive assessments meet the requirements of this paragraph, except that:

- no interpretation shall be made to require that all students taking the computer adaptive assessment be administered the same assessment items; and
- such assessment:
  - shall measure, at a minimum, each student’s academic proficiency based on the challenging State academic standards for the student’s grade level and growth toward such standards; and
  - may measure the student’s level of academic proficiency and growth using items above or below the student’s grade level, including for use as part of a State’s accountability system.

Students with Most Significant Cognitive Disabilities and English Learners. In developing and administering computer adaptive assessments:

- as the assessments for student with significant cognitive disabilities, a State shall ensure that such computer adaptive assessments:
  - meet the requirements of Alternate Assessments above; and
  - assess the student’s academic achievement to measure, in the subject being assessed, whether the student is performing at the student’s grade level; and
- as the assessments for English language proficiency, a State shall ensure that such computer adaptive assessments:
  - meet the requirements addressing English language proficiency requirements, except such assessment shall not be required to meet the requirement to administer to all students in the state.
  - assess the student’s language proficiency, which may include growth towards such proficiency, in order to measure the student’s acquisition of English.

**(K) Rule of Construction on Parent Rights**

Nothing in this paragraph shall be construed as preempting a State or local law regarding the decision of a parent to not have the parent’s child participate in the academic assessments.

**(L) Limitation on Assessment Time**

Generally. Subject to Federal or State requirements related to assessments, evaluations, and accommodations, each State may, at the sole discretion of such State, set a target limit on the aggregate amount of time devoted to the administration of assessments for each grade, expressed as a percentage of annual instructional hours.

Exception for Recently Arrived English Learners – Assessments. With respect to recently arrived English learners who have been enrolled in a school in one of the 50 States in the United States or the District of Columbia for less than 12 months, a State may choose to exclude:

- such an English learner from one administration of the required reading or language arts assessment; and
- such an English learner’s results on any of the required assessments for the first year of the English learner’s enrollment in such a school for the purposes of the State-determined accountability system.

Otherwise, a State may choose to:

- assess, and report the performance of, such an English learner on the required reading or language arts and mathematics assessments in each year of the student’s enrollment in such a school.

In addition, for the purposes of the State-determined accountability system:

- for the first year of the student’s enrollment in such a school, exclude the results on the assessments described above regarding deferral or suspension of the administration of assessments in development;
- include a measure of student growth on the assessments described above regarding deferral or suspension of the administration of assessments in the second year of the student’s enrollment in such a school; and
- include proficiency on the assessments described above regarding deferral or suspension of the administration of assessments in the third year of the student’s enrollment in such a school, and each succeeding year of such enrollment.

*English Learner Subgroup.* With respect to a student previously identified as an English learner and for not more than 4 years after the student ceases to be identified as an English learner, a State may include the results of the student’s assessments within the English learner subgroup of the subgroups of students for the purposes of the State-determined accountability system.