Title I Regulation on Alternate Achievement Standards

Questions and Answers

December 18, 2003

1. ***What is the purpose of this regulation?***

The purpose of this regulation is to ensure that students with the most significant cognitive disabilities participate fully in the standards and accountability under NCLB and schools receive credit for making progress with these students. It accomplishes this by permitting a student's proficient score on assessments based on alternate achievement standards to count the same as any other student's proficient score on a State assessment, subject to a 1 percent cap. Without this regulation, the achievement of students with the most significant cognitive disabilities would have to be measured against grade level achievement standards, and therefore would be considered "not proficient" for AYP calculations.

2. ***What is the 1 percent cap?***

Under the new regulations, when measuring Adequate Yearly Progress (AYP), States and school districts will have the flexibility to count the "proficient" scores of students with disabilities who take alternate assessments based on alternate achievement standards—as long as the number of those proficient scores does not exceed one percent of all students in the grades assessed (about nine percent of students with disabilities). The 1.0 percent cap is based on current incidence rates of students with the most significant cognitive disabilities, allowing for reasonable local variation in prevalence.

3. ***Why do we need a cap?***

The purpose of the cap is to limit the use of alternate achievement standards to students with the most significant cognitive disabilities. It is designed to ensure that there isn't an incentive to assess a student based on alternate achievement standards if it is not appropriate for that child. This cap protects students and provides a safeguard against assigning low-performing students to assessments and curricula that are inappropriately restricted in scope, thus limiting educational opportunity for these students.

4. ***What if a State or district has more than one percent of its students scoring "proficient" on an assessment based on alternate achievement standards?***

If more than one percent of the students score "proficient" or "advanced" based on alternate achievement standards, the State may only count 1 percent as proficient or advanced for AYP purposes and must apply the regular grade level achievement standards to the remaining students.

We recognize, however, that there may be valid reasons why a 1 percent cap is not sufficient for a State or LEA. In those instances, a State may request a slightly higher cap from the Secretary if the State is able to meet several criteria established in the regulation. Those criteria address such issues as incidence rates of students with the most significant cognitive disabilities; circumstances in the State that would explain the higher incidence rates (such as specialized health programs or facilities); and documentation that the State has implemented several safeguards that limit the inappropriate use of alternate assessments. These safeguards include providing clear guidelines to IEP teams on the use of alternate assessments, informing parents about the actual achievement of students, reporting on test taking patterns, including these students in the general curriculum (to the extent possible), providing information about the use of appropriate accommodations, and arranging for professional development about alternate assessments.

Using a similar process, a State may grant an exception to a district to exceed the 1 percent cap.

5. Will IEP teams continue to determine how to assess a child appropriately?

Yes. The final rule does not alter the Individualized Education Program (IEP) team's role in making individual decisions about how to assess a child. Instead, it restricts, solely for purposes of calculating AYP, the number of scores that can be counted as proficient based on alternate achievement standards.

6. Who are students with the most significant cognitive disabilities?

The regulation acknowledges that, while <u>all</u> children can learn challenging content, evaluating that learning through alternate achievement standards is appropriate for a small, limited percentage of students who are within one or more of the existing categories of disability, and whose cognitive impairments may prevent them from attaining grade-level achievement standards, even with the best instruction. The regulation does not specifically define this population of students. Nor does it create a new category of disability. It is the responsibility of the State to establish clear and appropriate guidelines for IEP teams to use when deciding if an alternate assessment based on alternate achievement standards is justified for an individual child.

7. What are alternate assessments?

An alternate assessment is an assessment designed for the small number of students with disabilities who are unable to participate in the regular State assessment, even with appropriate accommodations. IDEA required States to have statewide alternate assessments in place as of July 2000. To serve the purposes of assessment under Title I, an alternate assessment must be aligned with the State's content standards, must yield results separately in both reading/language arts and mathematics, and must be designed and implemented in a manner that supports use of the results as an indicator of AYP.

Alternate assessments are generally used to measure progress based on alternate achievement standards, but also may be designed to also measure proficiency based on grade level achievement standards. Proficient scores on alternate assessments aligned to grade level standards are not subject to the 1 percent cap.

8. What are alternate achievement standards?

An alternate achievement standard is an expectation of performance that differs in complexity from a grade-level achievement standard. Alternate achievement standards must be aligned with a State's academic content standards, promote access to the general curriculum, and reflect professional judgment of the highest achievement standards possible (See §200.1(d)). These standards will be considered during each State's peer review of its standards and assessment system under NCLB.

9. May States develop multiple alternate achievement standards to address the range of abilities of students with the most significant cognitive disabilities?

Yes. A State that chooses to create alternate achievement standards is not limited to developing a single alternate achievement standard. If, however, the State chooses to define multiple alternate achievement standards, it must employ commonly accepted professional practices to define the standards; it must document the relationship among the alternate achievement standards as part of its coherent assessment plan; and it must include in the 1.0 percent cap proficient scores resulting from all assessments based on alternate achievement standards. A State may take this approach in order to promote access to the general curriculum and to ensure that students are sufficiently challenged to meet the highest standards possible.

10. What are out-of level assessments?

"Out-of-level" testing means assessing students at one grade level with tests that were designed for students at lower grade levels. Out-of-level testing is often associated with lower expectations for students with disabilities, tracking such students into lower-level curriculum

with limited opportunities. It may also limit student opportunities for advancing to the next grade or graduating with a regular high school diploma.

According to the National Center on Education Outcomes, there is no research study to date that supports the use of out-of-level test scores from state assessments for demonstrating grade-level proficiency at the grade level in which a student is enrolled in school.

11. How does this regulation affect the use of out-of-level assessments?

In order to improve instruction and achievement for all students with disabilities, the Department expects States to assess as many students as possible with academic assessments aligned to grade-level achievement standards. If a State decides to use an out-of-level assessment to assess certain students with the most significant cognitive disabilities, it must meet the requirements of this regulation for alternate achievement standards. Alternate achievement standards developed and applied to out-of-level assessments may meet the requirements of this regulation only if they are aligned with the State's academic content standards, promote access to the general curriculum, and reflect professional judgment of the highest achievement standards possible. The results from out-of-level assessments must be included within the 1.0 percent cap for the purposes of calculating AYP, because the achievement standards associated with the content measured by out-of-level assessments are clearly different from the achievement standards in the target grade.

Previous guidance from the Department's Office of Special Education Programs indicated that out-of-level assessments were not alternate assessments. This new guidance, however, recognizes that out-of-level assessments that are administered to students with the most significant cognitive disabilities and that meet the requirements of this regulation may be considered to be alternate assessments based on alternate achievement standards.

12. What are accommodations?

Accommodations are changes in testing materials or procedures that ensure an assessment measures the student's knowledge and skills rather than the student's disabilities or English proficiency. Without accommodations, an assessment may not accurately measure an individual student's knowledge and skills. IEP teams determine whether accommodations are appropriate for an individual student.

Accommodations are generally grouped into the following categories:

- Presentation (e.g., repeat directions, read aloud, use of larger bubbles, etc.)
- Response (e.g., mark answers in book, use reference aids, point, etc.)
- Setting (e.g., study carrel, special lighting, separate room, etc.)
- Timing/Scheduling (e.g., extended time, frequent breaks, etc.)

For more information about accommodations, see
http://education.umn.edu/NCEO/OnlinePubs/Policy16.htm.

13. How does the regulation work in practice?

The following example illustrates how the policy works in practice. As determined by its 1 percent cap, a district with l0,000 students in the grades assessed may count for AYP purposes no more than 100 students scoring at proficient or advanced on an alternate assessment based on alternate achievement standards. This cap is calculated based on the number of students in the grades assessed. If this district has 150 students scoring at proficient or advanced on an alternate assessment based on alternate achievement standards, (and has not received an exception from the State to exceed the 1.0 percent cap), it must (1) count the excess 50 scores as not proficient, and (2) determine which proficient and advanced scores will be considered not proficient. To illustrate further, in this particular district there are four schools responsible for students who take alternate assessments based on alternate achievement standards.

- In school A, there are 50 proficient scores
- In school B, there are 50 proficient scores
- In school C, there are 25 proficient scores
- In school D, there are 25 proficient scores

The LEA needs to determine which 50 of the 150 "proficient" scores will be counted as "non-proficient" at schools A, B, C and/or D. This district would follow the State's procedures for allocating the scores among its schools. One State might identify a particular method that all districts would use. Another State might permit districts to select among several methods approved by the State.

If a State exceeds the cap, it would need to follow a similar process and determine which scores to count as non-proficient among LEAs and schools that administer alternate assessments based on alternate achievement standards.

Whatever method is selected, the State and district must also count these scores as not proficient in all the other subgroups to which they belong, and at each level of the system (i.e., school, district, and State).

14. How must districts and States work together to manage the use of alternate achievement standards?

State guidelines for the use of alternate achievement standards should be communicated to local schools and districts early in the school year to ensure consistency between instruction and assessments and to prevent confusion during test administration. The district should provide information to school personnel and IEP teams about the statewide assessments, appropriate accommodations, and alternate assessments based on alternate achievement standards.

Districts should also provide access to appropriate training to support sound IEP decisions about which students should participate in an alternate assessment based on alternate achievement standards. These decisions should always be made on a case-by-case basis and should support access to the most challenging curriculum possible for the individual student. Finally, districts should monitor implementation of assessments based on alternate achievement standards in schools throughout the district to ensure that alternate achievement standards are being used consistent with the best instructional practices known for students with the most significant cognitive disabilities.

15. Which educational agency – the State or local – is responsible for determining how to count proficient scores that exceed the 1 percent cap at the district level?

NCLB requires States to establish and monitor implementation of their accountability system. Within that system, LEAs are responsible for identifying schools in need of improvement and for making AYP determinations [Section 1116(a)(1)]. In practice, the educational agency that carries out this responsibility may differ depending upon how assessments are administered, scored, and analyzed. This regulation mirrors the same structure: The State defines the general procedures for dealing with scores above the 1 percent cap at the local level, and may make the LEA responsible for identifying which individual scores are to be treated as non-proficient in AYP calculations.

Ultimately, the process of counting all scores, including those that are to be included as not proficient because the LEA has exceeded the cap, should be methodical and consistent with state regulations and guidelines. The examples given in the discussion section of the regulation clarify a few options that States and LEAs can consider when establishing this system. If the SEA procedure assigns responsibility to the LEA to determine which individual scores are reassigned, then the LEA needs to determine which ‘‘proficient’’ scores (above the 1 percent cap) will be counted as ‘‘non-proficient’’ at its schools responsible for educating its students who took this assessment. This district would follow the State’s procedures for allocating the scores among its schools. One State might identify a particular method that all districts would use. Another State might permit districts to select among several methods approved by the State.

The intent of this regulation is to provide flexibility -- this flexibility will necessarily extend to the methods that States and LEAs use to implement and manage this regulation.

16. How will the Department know if a State implements this regulation appropriately?

There are (at least) three key ways the Department will monitor implementation of this regulation. First, the regulation requires States to report separately on the number and percentage of students taking an alternate assessment based on either grade-level achievement standards, or on alternate achievement standards, as well as those students taking regular assessments (including with accommodations). Second, the Office of Elementary and Secondary Education will be reviewing these assessments and testing practices during its peer review of State standards and assessments. Third, the Department intends to issue a report on the implementation of this regulation after two years of implementation.

17. Will the Department be providing additional guidance on assessment of students with disabilities?

Yes. If you have specific questions about this regulation, please contact the Department. For guidance on the standards and assessments requirements of NCLB, go to our website at http://www.ed.gov/policy/elsec/guid/saaguidance03.doc. For a copy of the regulation, go to http://www.ed.gov/news/pressreleases/2003/12/12092003.html.

18. How are alternate assessments aligned to grade level achievement standards affected by the regulation?

Alternate assessments based on grade level achievement standards would not be affected by the 1% cap. These assessments would need to meet the typical requirements for assessments, as specified in Title I and the regulations. "Proficient" on an alternate assessment aligned to grade level achievement standards would be considered to be the same as a "proficient" score on the regular state assessment.

19. If student scores are counted as 'not proficient' instead of 'proficient' because the district or state exceeded the 1% cap, are districts or states required to tell parents this information?

No. The regulation states (Section 200.13(c)(4)(v)) that parents are to receive the student's actual score.