(Authority: 20 U.S.C. 6311(c)(2); 6312(b)(1)(F), 9010(d)(1))

8. Add a new undesignated center heading to subpart A of part 200 and place it after revised §200.11 to read as follows:

State Accountability System

9. Revise §200.12 and place it under the new undesignated center heading “State Accountability System” in subpart A of part 200 to read as follows:

§200.12 Single State accountability system.

(a)(1) Each State must demonstrate in its State plan that the State has developed and is implementing, beginning with the 2002-2003 school year, a single, statewide accountability system.

(2) The State’s accountability system must be effective in ensuring that all public elementary and secondary schools and LEAs in the State make adequate yearly progress (AYP) as defined in §§200.13 through 200.20.

(b) The State’s accountability system must--

(1) Be based on the State’s academic standards under §200.1, academic assessments under §200.2, and other academic indicators under §200.19;
(2) Take into account the achievement of all public elementary and secondary school students;

(3) Be the same accountability system the State uses for all public elementary and secondary schools and all LEAs in the State; and

(4) Include sanctions and rewards that the State will use to hold public elementary and secondary schools and LEAs accountable for student achievement and for making AYP, except that the State is not required to subject schools and LEAs not participating under subpart A of this part to the requirements of section 1116 of the ESEA.

(Approved by the Office of Management and Budget under control number 1810 0576)

(Authority: 20 U.S.C. 6311(b)(2)(A))

10. Add a new undesignated center heading to subpart A of part 200 and place it after revised §200.12 to read as follows:

Adequate Yearly Progress

11. Revise §§200.13 through 200.18 and place them under the new undesignated center heading "Adequate Yearly Progress" in subpart A of part 200 to read as follows:

(a) Each State must demonstrate in its State plan what constitutes AYP of the State and of all public schools and LEAs in the State--

(1) Toward enabling all public school students to meet the State’s student academic achievement standards; while

(2) Working toward the goal of narrowing the achievement gaps in the State, its LEAs, and its public schools.

(b) A State must define, in accordance with §§200.14 through 200.20, in a manner that--

(1) Applies the same high standards of academic achievement to all public school students in the State;

(2) Is statistically valid and reliable;

(3) Results in continuous and substantial academic improvement for all students;

(4) Measures the progress of all public schools, LEAs, and the State based primarily on the State’s academic assessment system under §200.2;

(5) Measures progress separately for reading/language arts and for mathematics;

(6) Is the same for all public schools and LEAs in the State; and
(7) Consistent with §200.7, applies the same annual measurable objectives under §200.18 separately to each of the following:

(i) All public school students.
(ii) Students in each of the following subgroups:
(A) Economically disadvantaged students.
(B) Students from major racial and ethnic groups.
(C) Students with disabilities, as defined in section 9101(5) of the ESEA.
(D) Students with limited English proficiency, as defined in section 9101(25) of the ESEA.

(c) The State must establish a way to hold accountable schools in which no grade level is assessed under the State’s academic assessment system (e.g., K-2 schools), although the State is not required to administer a formal assessment to meet this requirement.

(Approved by the Office of Management and Budget under control number 1810-0576)

(Authority: 20 U.S.C. 6311(b)(2))

§200.14 Components of Adequate Yearly Progress.

A State’s definition of AYP must include all of the following:

(a) A timeline in accordance with §200.15.
(b) Starting points in accordance with §200.16.
(c) Intermediate goals in accordance with §200.17.

(d) Annual measurable objectives in accordance with §200.18.

(e) Other academic indicators in accordance with §200.19.

(Authority: 20 U.S.C. 6311(b)(2))

§200.15 Timeline.

(a) Each State must establish a timeline for making AYP that ensures that, not later than the 2013-2014 school year, all students in each group described in §200.13(b)(7) will meet or exceed the State’s proficient level of academic achievement.

(b) Notwithstanding subsequent changes a State may make to its academic assessment system or its definition of AYP under §§200.13 through 200.20, the State may not extend its timeline for all students to reach proficiency beyond the 2013-2014 school year.

(Authority: 20 U.S.C. 6311(b)(2))

§200.16 Starting points.

(a) Using data from the 2001-2002 school year, each State must establish starting points in reading/language arts and in mathematics for measuring the percentage of students meeting or exceeding the State’s proficient level of academic achievement.
(b) Each starting point must be based, at a minimum, on the higher of the following percentages of students at the proficient level:

(1) The percentage in the State of proficient students in the lowest-achieving subgroup of students under §200.13(b)(7)(ii).

(2) The percentage of proficient students in the school that represents 20 percent of the State’s total enrollment among all schools ranked by the percentage of students at the proficient level. The State must determine this percentage as follows:

(i) Rank each school in the State according to the percentage of proficient students in the school.

(ii) Determine 20 percent of the total enrollment in all schools in the State.

(iii) Beginning with the lowest-ranked school, add the number of students enrolled in each school until reaching the school that represents 20 percent of the State’s total enrollment among all schools.

(iv) Identify the percentage of proficient students in the school identified in paragraph (iii).

(c)(1) Except as permitted under paragraph (c)(2) of this section, each starting point must be the same
throughout the State for each school, each LEA, and each group of students under §200.13(b)(7).

(2) A State may use the procedures under paragraph (b) of this section to establish separate starting points by grade span.

(Authority: 20 U.S.C. 6311(b)(2))

§200.17 Intermediate goals.

Each State must establish intermediate goals that increase in equal increments over the period covered by the timeline under §200.15 as follows:

(a) The first incremental increase must take effect not later than the 2004-2005 school year.

(b) Each following incremental increase must occur in not more than three years.

(Authority: 20 U.S.C. 6311(b)(2))

§200.18 Annual measurable objectives.

(a) Each State must establish annual measurable objectives that--

(1) Identify for each year a minimum percentage of students that must meet or exceed the proficient level of academic achievement on the State’s academic assessments; and
(2) Ensure that all students meet or exceed the State’s proficient level of academic achievement within the timeline under §200.15.

(b) The State’s annual measurable objectives--

(1) Must be the same throughout the State for each school, each LEA, and each group of students under §200.13(b)(7); and

(2) May be the same for more than one year, consistent with the State’s intermediate goals under §200.17.

(Authority: 20 U.S.C. 6311(b)(2))

12. Add §200.19 and place it under the new undesignated center heading “Adequate Yearly Progress” in subpart A of part 200 to read as follows:

§200.19 Other academic indicators.

(a) Each State must use the following other academic indicators to determine AYP:

(1) **High schools.** (i) The graduation rate for public high schools, which means--

(A) The percentage of students, measured from the beginning of high school, who graduate from high school with a regular diploma (not including an alternative degree that is not fully aligned with the State’s academic
standards, such as a certificate or a GED) in the standard number of years; or

(B) Another definition, developed by the State and approved by the Secretary in the State plan, that more accurately measures the rate of students who graduate from high school with a regular diploma as defined in paragraph (a)(1)(i)(A) of this section.

(ii) In defining graduation rate, the State must avoid counting a dropout as a transfer.

(2) Elementary and middle schools. At least one academic indicator for public elementary schools and at least one academic indicator for public middle schools, such as those under paragraph (b) of this section.

(b) The State may include additional academic indicators determined by the State, including, but not limited to, the following:

(1) Additional State or locally administered assessments not included in the State assessment system under §200.2.

(2) Grade-to-grade retention rates.

(3) Attendance rates.

(4) Percentages of students completing gifted and talented, advanced placement, and college preparatory courses.
(c) A State must ensure that its other academic indicators are--

(1) Valid and reliable;

(2) Consistent with relevant, nationally recognized professional and technical standards, if any; and

(3) Consistent throughout the State within each grade span.

(d)(1) A State may, but is not required to, increase the goals of its other academic indicators over the course of the timeline under §200.15.

(2) The State--

(i) Must disaggregate its other academic indicators by each group in §200.13(b)(7) for purposes of §200.20(b)(2) and section 1111(h) of the ESEA; but

(ii) Need not disaggregate those indicators for determining AYP except as required under section 1111(b)(2)(C)(vii) of the ESEA.

(e) Except as provided in §200.20(b)(2), a State--

(1) May not use the indicators in paragraphs (a) and (b) of this section to reduce the number, or change the identity, of schools that would otherwise be subject to school improvement, corrective action, or restructuring if those indicators were not used; but
(2) May use the indicators to identify additional schools for school improvement, corrective action, or restructuring.

(Authority: 20 U.S.C. 6311(b)(2), (h))

13. Revise §§200.20 and 200.21 and place them under the new undesignated center heading “Adequate Yearly Progress” in subpart A of part 200 to read as follows:

§200.20 Making Adequate Yearly Progress.

A school or LEA makes AYP if it complies with paragraph (c) and with either paragraph (a) or (b) of this section separately in reading/language arts and in mathematics.

(a)(1) A school or LEA makes AYP if—

(i) Each group of students under §200.13(b)(7) meets or exceeds the State’s annual measurable objectives under §200.18; and

(ii) The school or LEA, respectively, meets or exceeds the State’s other academic indicators under §200.19.

(2) For a group under §200.13(b)(7) to be included in the determination of AYP for a school or LEA, the number of students in the group must be sufficient to yield statistically reliable information under §200.7(a).
(b) If students in any group under §200.13(b)(7) in a school or LEA do not meet the State’s annual measurable objectives under §200.18, the school or LEA makes AYP if--

(1) The percentage of students in that group below the State’s proficient achievement level decreased by at least 10 percent from the preceding year; and

(2) That group made progress on one or more of the State’s academic indicators under §200.19 or the LEA’s academic indicators under §200.30(c).

(c)(1) A school or LEA makes AYP if --

(i) Not less than 95 percent of the students enrolled in each group under §200.13(b)(7) takes the State assessments under §200.2; and

(ii) The group is of sufficient size to produce statistically reliable results under §200.7(a).

(2) The requirement in paragraph (c)(1) of this section does not authorize a State, LEA, or school to systematically exclude 5 percent of the students in any group under §200.13(b)(7).

(3) If a student takes the State assessments for a particular subject or grade level more than once, the State must use the student’s results from the first administration to determine AYP.
(d) For the purpose of determining whether a school or LEA has made AYP, a State may establish a uniform procedure for averaging data that includes one or more of the following:

   (1) Averaging data across school years. (i) A State may average data from the school year for which the determination is made with data from one or two school years immediately preceding that school year.

   (ii) If a State averages data across school years, the State must--

       (A) Implement, on schedule, the assessments in reading/language arts and mathematics in grades 3 through 8 and once in grades 10 through 12 required under §200.5(a)(2);

       (B) Report data resulting from the assessments under §200.5(a)(2);

       (C) Determine AYP under §§200.13 through 200.20, although the State may base that determination on data only from the reading/language arts and mathematics assessments in the three grade spans required under §200.5(a)(1); and

       (D) Implement the requirements in section 1116 of the ESEA.

   (iii) A State that averages data across years must determine AYP on the basis of the assessments under
§200.5(a)(2) as soon as it has data from two or three years to average. Until that time, the State may use data from the reading/language arts and mathematics assessments required under §200.5(a)(1) to determine adequate yearly progress.

(2) **Combining data across grades.** Within each subject area and subgroup, the State may combine data across grades in a school or LEA.

(e)(1) In determining the AYP of an LEA, a State must include all students who were enrolled in schools in the LEA for a full academic year, as defined by the State.

(2) In determining the AYP of a school, the State may not include students who were not enrolled in that school for a full academic year, as defined by the State.


§200.21 Adequate yearly progress of a State.

For each State that receives funds under subpart A of this part and under subpart 1 of part A of Title III of the ESEA, the Secretary must, beginning with the 2004-2005 school year, annually review whether the State has—

(a)(1) Made AYP as defined by the State in accordance with §§200.13 through 200.20 for each group of students in §200.13(b)(7); and
(2) Met its annual measurable achievement objectives under section 3122(a) of the ESEA relating to the development and attainment of English proficiency by limited English proficient students.

(b) A State must include all students who were enrolled in schools in the State for a full academic year in reporting on the yearly progress of the State.

(Authority: 20 U.S.C. 7325)


15. Add a new undesignated center heading to subpart A of part 200 and place it after §200.24 to read as follows:

Schoolwide Programs

16. Revise §200.25 and place it under the undesignated center heading “Schoolwide Programs” in subpart A of part 200 to read as follows:

§200.25 Schoolwide programs in general.

(a) Purpose. (1) The purpose of a schoolwide program is to improve academic achievement throughout a school so that all students, particularly the lowest-achieving students, demonstrate proficiency related to the State’s academic standards under §200.1.