



Illinois State Board of Education

100 West Randolph Street, Suite 4-800 • Chicago, Illinois 60601-3223
www.isbe.net

James T. Meeks
Chairman

Tony Smith, Ph.D.
State Superintendent of Education

September 9, 2016

Ms. Jessica McKinney
U.S. Department of Education
400 Maryland Avenue SW, Room 3W107
Washington, DC 20202

Docket ID: ED-2016-OESE-0053; ED-2016-OESE-0047

Dear Ms. McKinney:

Please accept the following as public comment on behalf of the Illinois State Board of Education (ISBE) on the U.S. Department of Education's proposed regulations governing academic assessments and the Innovative Assessment and Accountability Demonstration Authority (34 CFR Part 200) under the Elementary and Secondary Education Act (ESEA) as amended by the Every Student Succeeds Act (ESSA). Illinois is a state with great diversity; indeed, ISBE oversees 852 school districts, more than 4,000 schools, and over 2 million students.

We commend the overall approach of the U.S. Department of Education (ED) in encouraging states to utilize the flexibility provided by ESSA in the development of their assessment systems. ISBE is pleased that the proposal for academic assessments and the Innovative Assessment and Accountability Demonstration Authority recognize the need for flexibility and address concerns related to special populations of students in an effort to extend access and opportunity.

However, ISBE has identified specific provisions, listed below, that pose significant concern and require reconsideration as the regulations are finalized.

Academic Assessments: ED-2016-OESE-0053

A. §200.5 Assessment Administration

Frequency: §200.5(a)

Under Section 1111(b)(2)(B)(v) of the ESEA, a state must administer assessments annually as follows: a state must administer reading/language arts and mathematics assessments in each of grades 3 through 8 and at least once in grades 9 through 12; and a state must administer science assessments not less than one time in grades 3 through 5, grades 6 through 9, and grades 10-12. Proposed §200.5(a) describes the frequency with which reading/language arts, mathematics,

and science assessments must be administered under Section 1111(b)(2)(B)(v). It also clarifies that a state must administer assessments annually in the specified grade spans.

The intent of the law is to ensure that all schools are appropriately serving students as informed by proficiency on required assessments. Recognizing that the grade bands are established in statutory language rather than regulatory language, ISBE is compelled to question why the grade level bands at high school differ for science from those associated with reading/language arts and math. This disconnect is particularly troublesome in a course-based assessment system because it does not recognize that students may access required coursework at different points in their high school career depending on the course-sequence established by a specific school and the college and career interests of the student. Specifically, ISBE advocates for grade 9 to be included as part of high school for purposes of science assessment. The rationale for a difference in high school grade bands between content areas is not evident, and the practice does not promote the flexibility required by states and districts to make meaningful changes based on assessment results. ISBE suggests the use of a waiver to allow an exception to the existing grade band limitation for science.

Recommendation: ED should defer to congressional intent and amend this proposed regulation to include additional flexibility that promotes access and opportunity for each and every student, such as through use of a waiver to allow an exception to the grade band limitation for science.

Middle School Mathematics Exception: §200.5(b)

Proposed §200.5(b) implements the eighth-grade mathematics exception in Section 1111(b)(2)(C). In particular, the proposed regulation allows only a State that administers an end-of-course mathematics assessment to meet the high school assessment requirement to offer the exception to eighth-grade students.

Many states administer high school end-of-course tests as a state requirement and/or offer such tests as a developmentally-appropriate option for a student enrolled in a corresponding course. Many of these states at the same time utilize a generalized assessment, such as an assessment used for purposes of college entrance or placement into credit-bearing coursework, at a different grade level, as the assessment required by state and federal law. The intent of the law is to both encourage fair and equitable access to advanced coursework for each and every student at middle school and to promote accurate data collection as part of the assessment process. The narrow interpretation provided in §200.5(b) limiting state use to states using a course-based assessment to meet the high school assessment requirement rather than states employing multiple assessments or assessment systems across the grade range is contrary to the intent of Congress. If a state engages in an assessment system at grades 3-8 that offers high school course-based options while administering a generalized assessment at another grade level, it should not prohibit the state's use of such peer-reviewed course-based assessments to accurately reflect student achievement in the most developmentally-appropriate manner. This is especially true given assessment options that exist to measure continuing student achievement for these students in high school either by way of course-based assessments or a generalized assessment.

Future statutory consideration should be given to extending the options for developmentally-appropriate assessment of students accessing advanced coursework in any grade level and in any content area. ISBE promotes the use of multiple sources of assessment data for appropriate student placement into advanced coursework. The approach proposed by ED suggests that students should be subject to assessments that merely reflect their enrolled grade rather than their demonstration of competency.

Finally, should a state elect to pursue the use of a locally-selected, nationally recognized high school assessment option that will be available under ESSA in the future, the option for the eighth-grade mathematics exception needs to be clarified as it is unclear how this may impact students enrolled in a high-school course if an LEA elects to administer approved course-based options (e.g. PARCC) while the designated state assessment at high school is a generalized assessment, or if, conversely, a state offers course-based assessment as the required state assessment and a district locally selects a peer-reviewed college-entrance exam at high school. Opportunities for engagement in advanced coursework should not be limited by individual district assessment decisions.

Recommendation: ED should adhere to congressional intent and amend this proposed regulation to include additional flexibility that promotes access and opportunity for each and every student.

B. §200.6(c)(1), (c)(3), and (d) – Alternate Assessments Aligned With Alternate Academic Achievement Standards for Students With the Most Significant Cognitive Disabilities

The proposed regulations address the cap of 1.0 percent of students at the state level assessed in a subject in a school year with an alternate assessment and the resulting actions on behalf of a state.

ISBE wholly supports the use of strong guidance and supportive monitoring to ensure that schools and districts promote IEP decision-making that results in accurate assessment of students. ISBE agrees that instances of disproportionate identification for alternate assessments should be examined and addressed, but the proposed limited waiver option for exceeding the 1.0 percent statewide cap does not accurately support appropriate identification and instruction of students through use of the IEP process. While the initial waiver process itself is burdensome at the state level, subsequent requests require additional evidence of intervention in districts where a local 1.0 percent cap is being exceeded. In some instances, this may be appropriate oversight, but in other situations where unique programming may be available that may attract families of students with significant needs into a community, this type of monitoring does not appropriately address the particular circumstances at hand. While ISBE is vigilant in its efforts to promote proper assessment of students, it would be unfortunate to implement measures that may have an unintended consequence of persuading districts or states with extraordinary programming on behalf of students with the most significant cognitive disabilities to discontinue such programming.

Recommendation: The intent of Congress was for states to better support and more accurately assess students with the most significant cognitive disabilities under Section 1111(b)(2)(D). ED should adhere to congressional intent and should amend the proposed regulations to ensure that a statewide 1.0 percent cap is not institutionalized with such limited flexibility that the regulations unintentionally discourage quality programming for students with the most significant cognitive disabilities.

Innovative Assessment and Accountability Demonstration Authority: ED–2016–OESE–0047

ISBE is optimistic about aspects of the proposed regulations that provide states with additional flexibility to support the design and development of more innovative and meaningful systems of student assessment. However, the Council of Chief State School Officers has raised certain issues based on feedback from state education chiefs nationwide, including in Illinois, that warrant reconsideration before the finalization of regulations. These concerns are addressed below.

Definition of “Demonstration Authority Period” and Timeline to Implement

The proposed regulations define “demonstration authority period” to clarify that, upon submitting an application, an SEA must be ready to use its innovative assessment and accountability system in at least some of its LEAs for purposes of accountability and reporting.

As suggested by CCSSO, ISBE can attest to the fact that significant time and resources are necessary at the state level to design and build an innovative system of assessment prior to implementation. Absent clear guidance regarding approval, an investment into this critical work could be difficult for a state to justify given that approval may not be granted after completion of costly work. ISBE supports the CCSSO recommendation for a planning period or conditional approval process preceding final approval. In this manner, states may gain the necessary feedback in a timely manner and prior to final approval in order to promote continued investment of efforts.

Individual Assessments versus a System of Assessments

The proposed regulations provide that the innovative assessment system and each assessment in the system must meet all of the requirements of Section 1111(b)(2) and the application requirements in order for a state to transition out of the demonstration authority and use its assessment system for purposes of Section 1111(b)(2).

ISBE supports the CCSSO assertion that this proposal is not consistent with statute requiring the assessment system as a whole to meet all of the requirements of Section 1111(b)(2), but not each individual assessment. Innovative designs are likely to incorporate more flexible administration designs such that each individual assessment module, administered over a period of time and contributing to a comprehensive score, would not be likely to demonstrate comparability to state test which may cover standards across an entire course. We also concur

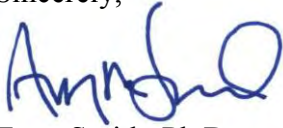
that districts could be subjected to an increased burden of testing time in order to satisfy all requirements of Section 1111(b)(2). This could contribute to a lack of participation by districts.

Definition of Comparability

ISBE is encouraged that ED has proposed multiple options for demonstrating comparability, but additional flexibility will likely be necessary as states develop assessments that are decidedly different from those currently available. If comparability is too narrowly defined, states will likely not make the advances in measuring student knowledge, skills, and abilities that the most visionary systems of assessment are capable of making. ISBE supports the request of CCSSO that ED make judgments on the strength of theory and evidence submitted in support of each case.

Thank you for the opportunity to provide recommendations on the proposed regulations. ISBE is committed to supporting every district to create more social, economic, and political capital for each and every student we serve. The long-term well-being of our state requires a deep commitment to excellent and equitable outcomes for all of our students. If you would like to discuss our concerns, please do not hesitate to contact our federal liaison, Melina Wright, at mewright@isbe.net or (312) 814-1295.

Sincerely,

A handwritten signature in blue ink, appearing to read "Tony Smith".

Tony Smith, Ph.D.
State Superintendent of Education