

December 9, 2003, the U.S. Department of Education released final regulations promoting the participation of every child in state and district-wide assessments, a requirement in existence since the reauthorization of the Individuals with Disabilities Education Act (IDEA) in 1997.

The regulations allow students with significant cognitive disabilities to be assessed against alternate achievement standards. They also clarify requirements regarding the percent of students who are assessed in this way and who score at the proficient or advanced level on alternate achievement standards that can be included in the calculation of adequate yearly progress (AYP) at the district and state levels.

States, districts, and schools will have the flexibility to count the proficient and advanced scores of student with the most significant disabilities who take an assessment based on alternate achievement standards (in Illinois, the IAA) as meeting and exceeding state standards. However, the number of students whose “progressing” or “attaining” scores on the IAA can be included in the calculation of AYP at the district and state levels may not exceed 1.0 percent of all students in the grades assessed in reading and in mathematics. Without this flexibility, these progressing and attaining scores would have to be measured against grade level standards and considered as not meeting standards.

Guidelines for Participation in State-Developed Alternate Assessment

Federal regulations (No Child Left Behind Act of 2001 and Individuals with Disabilities Education Act Amendments of 1997), stipulate that all students, including those with disabilities, must participate in state assessments. In Illinois, the following three options exist for meeting this requirement: (1) participation in the regular state assessment without accommodations; (2) participation in the regular state assessment with accommodations; or (3) participation in a state-approved alternate assessment. Students with disabilities should receive needed accommodations (that do not compromise the purpose or security of the test) as a means of facilitating their participation. These accommodations should be a part of the student’s regular instructional routine and should not be used or introduced solely for the purpose of state-required assessment. It is expected that alternate assessment offers the most appropriate opportunity for participation in state assessment for a small percentage of students with disabilities. The IAA Participation Guidelines posted on the ISBE website will assist individualized education program (IEP) teams in determining whether or not a student should participate in alternate assessment. They can be found at www.isbe.net/assessment (click on alternate assessment for guidance).

The determination as to how a student with disabilities will participate in state and district-wide assessments is to be made by each student’s IEP team, at least annually, at an IEP meeting. For Grade 11 students, if the IEP team determines that the state’s alternate assessment is most appropriate for a student, that student would participate in alternate assessment “across the board” (i.e., in all subject areas). Students in other grades where ISAT is given may participate in the regular state assessment for some subjects and in the IAA for others. Participation in the alternate assessment should not be based on disability category, achievement level, school attendance, or social/cultural factors.

Based on the three options outlined above, the IEP team should document how the student will participate in state and district-wide assessments in the “Supplementary Aids and State and District-Wide Assessment” sections of the student’s IEP. The district may be asked to provide a copy of these sections from the IEP of each IAA participant with the waiver application.

The U.S. Department of Education and State of Illinois is not defining “significantly cognitively disabled students” at this time. This determination will continue to be made at the local level. School districts should not seek to attain 1% participation of their students with disabilities as a goal. The 1% rule does not give districts permission to exceed individualized decision making using Illinois criteria.

Given the new regulations, Illinois is working on the development of alternate achievement standards that can be used in the state’s next request for bid for an alternate assessment. The next version of an alternate assessment would be based on these standards. Illinois plans to pilot a new alternate assessment in FY 05 and to implement the assessment statewide in FY 06.

Authorization to Grant Exceptions

Effective January 9, 2004, 34 CFR Part 200 of Title I – Improving the Academic Achievement of the Disadvantaged; Final Rule, Section 200.13 requires state education agencies to include the scores of all students with disabilities, even those with the most significant cognitive disabilities, in calculating adequate yearly progress (AYP) for schools, local education agencies (LEAs), and the state. States may include the proficient and advanced scores of students with the most significant cognitive disabilities based on alternate academic achievement standards in section 200.1(d), provided that the number of those students who score at the proficient or advanced level on those alternate achievement standards at the LEA and at the state levels, separately, does not exceed 1.0 percent of all students in the grades assessed district-wide in reading/language arts and in mathematics. **The state may grant an exception to an LEA permitting it to exceed the 1.0 percent cap only if the state evaluates the LEA’s request using the conditions consistent with paragraph (c)(2) of Section 200.13.**

34 CFR Section 200.13(c)(3) specifies that, at the request of an LEA, the state may grant an exception to an LEA permitting it to exceed the 1.0 percent cap. The state must use criteria consistent with that described in the regulations applicable to a state request for an exception [34 CFR Section 200.13(c)(2)]. The state must review regularly whether an LEA’s exception to the 1.0 percent cap is still warranted. If the conditions for the waiver are approved, then proficient and advanced scores earned by students taking the IAA will be counted as proficient in making determinations for district and state AYP.

- 34 CFR Section 200.13(c)(2) specifies that a state may request an exception permitting it to exceed the 1.0 percent cap.

However less than 1% of all students assessed in Illinois participate in the alternate assessment thus Illinois would not likely qualify for a waiver at this time. Some LEAs may qualify for an exception subject to meeting the following three components:

1. Is the LEA's population of students with the most significant cognitive disabilities over 1%? The numerator is the number of students in the LEA taking the IAA. The denominator is the total enrollment of students in the grades assessed on the first day of testing.
2. Is there a compelling reason why the incidence of such students in the LEA exceeds 1.0 percent of all students in the combined grades assessed?
 - Provide descriptions and data showing school, community, or health programs in the LEA that have drawn large numbers of families of students with the most significant cognitive disabilities.
 - Provide descriptions and data showing such a small overall student population in the LEA that it would take only a very few students with such disabilities to exceed the 1.0 percent cap.
 - Other, provide explanation.
3. Does the LEA show evidence that it is fully and effectively implementing appropriate accountability policies and procedures for students with disabilities?
 - Provide copy of LEA guidelines for IEP teams to apply in determining when a child's significant cognitive disability justifies taking the IAA;
 - Provide description of how parents are informed when their student's score is based on alternate standards;
 - Provide policies for including students with significant cognitive disabilities in the regular curriculum and assessments;
 - Provide policies for the use of accommodations and modifications in testing; and
 - Provide descriptions of how regular and special education teachers are trained to administer alternate assessments and regular assessments with accommodations or modifications.

The following criteria will be used in considering and approving/disapproving district requests for exceptions to the 1 percent cap.

Requests within the Cap (i.e., 1 percent or fewer range):

LEAs with 1 percent or fewer of the enrolled student population taking the alternate assessment will not be subject to review by ISBE. Districts should not seek to attain 1% of their students with disabilities participating in the alternate assessment. Participation guidance should be adhered to in making individualized decisions on behalf of the student.

Requests from Districts with Small Overall Student Populations

As a general rule, districts with small overall populations would be given consideration with a high likelihood that their request would be approved. For example, a district with 50 children enrolled in the tested grades, one of whom is a student with a significant cognitive disability participating in standards-based alternate assessment, would have 2 percent of the total enrolled population taking alternate assessment. As such, this district would request an exception to the 1 percent cap.

Requests from Other Districts that Exceed the Cap

LEAs that do not have a small overall student population and seek exceptions to the cap will be reviewed as follows: This review will involve consideration of district incidence data, particularly in the area of cognitive disabilities. In reviewing a district's child count, for example, the team would take into account that, nationally, about 1.13 percent of all students are identified as having mental retardation. Of those children, only about one-third are estimated to have significant (i.e., severe/profound) mental retardation and are likely to need to participate in alternate assessment. In addition to incidence and assessment data, other data to be considered by ISBE could include least restrictive environment placement data; compliance and monitoring data, IEP information regarding supplementary aids and assessment, and district expenditure data.

Exceptions will be granted for one year, however a previously approved exception could be submitted for renewal.

Instructions and a form for applying for a waiver can be found at <http://www.isbe.net/assessment/IAA.htm>.