

NYSED's Proposal to Amend Testing Procedures for Students with Disabilities



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NY SPECIAL EDUCATION TASK FORCE
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Background



- Elementary & Secondary Education Act (ESEA) (2011)
 - Revised version of No Child Left Behind
 - Ties implementation of Common Core to federal funding
 - Ongoing federal funding requires strict adherence to principles of common core, testing as means of measuring performance and ensuring accountability
 - States are permitted to seek annual “waivers” of certain conditions of funding to the US Dept of Ed (USD OE) to permit states some flexibility in implementation

NYSED's Current Proposal



- As part of its application to extend ESEA flexibility for another year, NYSED is seeking approval from the Board of Regents to include the following “Amendment” to its prior ESEA waiver request:
- “Permission from USDE to assess students with significant cognitive disabilities (who are ineligible for the NYS Alternate Assessment) based on their instructional level rather than their chronological age” (NYSED letter to BOR dated 12/9/13)
- i.e., state wants to test certain students using lower grade level tests; e.g. John is in 5th grade but would be assessed using 3rd grade test
- ELA & math only

NYSED's Proposal



DETAILS AND DISCUSSION POINTS

Is Out-of Grade Testing Permitted by USDE?



In 2011, USDE issued guidelines requiring states to provide a set of assurances to USED, including an assurance that “[The State] will develop and administer no later than the 2014–2015 school year alternate assessments **based on grade-level academic achievement** standards or alternate assessments based on alternate academic achievement standards **for students with the most significant cognitive disabilities that are consistent with 34 C.F.R. § 200.6(a)(2) and are aligned with the State’s college- and career-ready standards.** (Principle 1)” (ESEA Flexibility Request form, September 23, 2011)

Note: 34 CFR 200.6(a) requires that alternate assessment “be aligned with the State’s grade level academic content standards”

When ESEA First Came Out, USDE said



*“One of the bedrock principles of the NCLB Act is that all students can learn to high standards. As a result, section 1111(b)(1) requires challenging academic content and student achievement standards that a State applies to all schools and students in the State. Similarly, section 1111(b)(3) requires a State to develop aligned assessments that the State uses to measure the achievement of all students. These requirements are accurately implemented in Secs. 200.2(b)(1) and 200.6(a) of the final regulations. Specifically, as Sec. 200.6(a)(1) indicates, **a State’s assessment system must provide accommodations so that a student with disabilities or a student covered under Section 504 of the Rehabilitation Act of 1973 can be held to the content and achievement standards for the grade in which the student is enrolled. Although “out-of-level” tests, for example, may provide instructional information about a student’s progress, they are not an acceptable means to meet the State’s assessment requirements under Secs. 200.2 and 200.6 or the accountability requirements of the NCLB Act.”***

(34 CFR Part 200, Final Regulations for Standards and Assessments, issued July 2002)

NYSED's Rationale for Request



- NYSED states that “until the State can develop and implement *adaptive assessments*,” out of grade testing is needed to “more appropriately assess, for *instructional and State accountability* purposes, the performance of students with significant cognitive disabilities who cannot, because of the severity of their disabilities, participate in chronological grade level instruction.”

NYSED's Rationale: Discussion



“Until the State can develop and implement *adaptive assessments*. . .”

- Common core requires use of assistive technology and accessible testing instruments so students can demonstrate what they know and not have performance penalized because of their disability
 - Why are adaptive assessments not in place?
 - Is out of grade level testing the way to address the lack of adaptive assessments?
 - Once the adaptive assessments are developed and implemented, will we go back to grade level assessments?

Rationale: Discussion



“More appropriately assess for instructional and State accountability purposes. . .”

- Sole purpose of state assessments has always been to provide objective measure of student performance to determine if the school district is effectively teaching students, if the district needs support to improve student performance and to hold States accountable for the federal \$ provided to states to ensure that ALL students are being educated effectively
- State assessments were never intended to guide instructional/CSE decisions for individual students
- How does lowering testing standards for some students support or improve State accountability for all students?

Eligibility for Instructional Level Testing



- NYSED would issue “criteria and guidance” to determine which students would be “eligible” for out of grade testing
- According to USDE requirements, out of grade testing can only be used for students with “significant cognitive disabilities”.
- In NY, this has historically meant 1 or 2% of students with disabilities who are alternately assessed based on the “Alternate Assessment Learning Standards”
- Proposal seeks to use non-grade level testing for students who do not fall into “Alternate Assessment”
- Proposal does not address specific criteria by which these students will be identified and determined eligible. Refers to CSE input, but appears that school makes final determination.

Determination of Grade Level for Testing



- NYSED does not state how many grades below the student's grade level the student can be tested at, only that the number of grade levels below will be "limited"
- NYSED uses 2 years as *an example* but does not state a specific limit. Under example, 8th grader could be assessed using 6th grade test, but because NYSED does not specify a limit, 8th grader could potentially be tested at even a 5th or 4th grade level
- Note: Proposal indicates that once lower level is determined, student would have to be assessed at higher grade level in each subsequent year

Reporting Student Achievement



- In reporting grade level proficiency to the feds, the results of students tested off level will be included with all students for that grade level.
 - Example: 8th grader tested at 6th grade level; results will be included in the report to feds on how well 6th graders did on the test
- NYSED agrees to limit the # of higher grade students who do well on the lower grade tests for reporting purposes
- This appears to mean that there is no limit on the # of students who may be tested off grade level as long as they meet the currently unspecified criteria the State will develop.
- It also means the State's scores will probably look better because older students are taking lower grade tests

Parent Support for Proposal



- NYSED points to outcry and pressure from parents and some school personnel that tests are too hard and test-taking causes undue stress on students
- Questions:
 - Tests are administered to assess the school's performance, not the individual student's performance. Why are kids feeling so much stress?
 - Are there other means to reduce this stress?

Impact of Adjusted Grade Level Testing



- Comments and questions from advocacy groups re: “out of grade testing”:
 - Why teach students at grade level (as required by IDEA and NY) and then test them at end of year on the content of another grade level? Will students actually do better?
 - If tested at alternate grade level, what is the incentive to teach grade level content?
 - Allows students to be “left behind” and hinders ability to ever catch up because always behind grade level

Other Issues – Limited Time for Comment



- The Board of Regents voted to consider the NYSED proposal at its January 13 meeting. They requested opportunity for public comment. Because ESEA application is due at end of February, comment period is limited to January 16 to January 24, including a major holiday.
- Is this sufficient time for New Yorkers to understand and comment on this important issue?

Alternatives to NYSED Proposal – Test Accommodations



- Most agree that schools have not been provided with sufficient training, funding and guidance in rolling out the common core
- NYSED's current policy on accommodations does not permit accommodation of "reading the test" in any part of ELA assessments even if the particular skill being tested is not reading (e.g. writing or comprehension) even though Common Core designers emphasize use of accommodations and assistive technology
- Would more comprehensive use of accommodations reduce stress on test-takers and/or improve performance?

Other Ideas or Comments?



Taking Action



- Comments are due to NYSED by Friday, 1/24/14
- Task Force will post summary comments from this session to our website for use by the public in drafting their own comments:
www.nyspecialtaskforce.org
- Recommend that comments be directed to each member of the Board of Regents as well as NYSED
- Contact info:
 - Dr. John B. King, Jr.
Commissioner
*New York State Education Department
89 Washington Avenue
Albany, New York 12234*
 - Board of Regents: <http://www.regents.nysed.gov/members/>
 - National Center for Learning Disabilities has website that allows you to make comments and they take care of delivery; note that NCLD has a position on these topics which you may or may not agree with:
<https://secure2.convio.net/nclcd/site/Advocacy?cmd=display&page=UserAction&id=203>