



Talking Points
Elementary & Secondary Education Act/No Child Left Behind
Proposed Regulations
Title I – Improving the Academic Achievement of the Disadvantaged

Background

On April 23, 2008, the U.S. Department of Education released a series of proposed regulations on a variety of issues under the purview of the Elementary and Secondary Education Act (ESEA)/No Child Left Behind (NCLB), including:

- Assessments
- Accountability
- Supplemental Educational Services
- Public School Choice

To gain stakeholder feedback, the Department is holding four regional meetings to discuss the proposed regulatory changes under NCLB. Individuals interested in participating in a meeting may register ahead of time by emailing Special.Events@ed.gov or may register first-come, first served, onsite.

| Schedule of U.S. Department of Education Regional Meetings on Proposed Regulations | |
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| <p>Wednesday, May 14, 2008 Hilton Boston Back Bay Hotel 40 Dalton Street Boston, Mass. 02115 Time: 9 a.m. - noon and 2 - 5 p.m. EDT Meeting Room: Fenway Room</p> | <p>Thursday, May 15, 2008 Georgia Perimeter College, Dunwoody Campus 2101 Womack Road Dunwoody, Ga. 30338 Time: 9 a.m. - noon and 2 - 5 p.m. EDT Meeting Room: Auditorium, C1100, North Campus</p> |
| <p>Monday, May 19, 2008 Sheraton Kansas City Sports Complex Hotel 9103 East 39th Street Kansas City, MO. 64133 Time: 9 a.m. - noon and 2 - 5 p.m. EDT Meeting Room: Royal Ballroom</p> | <p>Thursday, May 22, 2008 W Hotel 1112 4th Avenue Seattle, WA 98101 Time: 9 a.m. - noon and 2 - 5 p.m. EDT Meeting Room: Great Room 1</p> |

CEC encourages its members to become active in this process by attending one of the regional meetings hosted by the Department and/or submitting comments/thoughts/feedback from the regional meeting to CEC's Policy and Advocacy Services staff (pubpol@cec.sped.org). CEC is pleased to provide its members the following talking points on selected proposed regulations to be used as a resource for the regional meetings. Additionally, CEC will be providing formal comments to the proposed regulations prior to June 23, 2008, the deadline for public comment.

Talking Points

Introduction

- Briefly state your name, hometown, profession, where you work and that you are a member of the Council for Exceptional Children.
- Thank the U.S. Department for the opportunity to share your feedback and insight into the proposed regulatory changes to NCLB.

Proposed Regulations Regarding Assessments (Section 200.2)

- **Summary of the proposed change:** The proposed regulation seeks to clarify that measures of student academic achievement may include multiple types of questions (i.e. multiple choice, constructed response, etc.) that range in complexity and reflect the cognitive concepts and processes in the State content standards within a single assessment as well as multiple assessments in a content area.
- **Talking points:**
 - I support the Department's goal of providing clarification to States regarding the multiple formats that can be used in assessments for the purposes of adequate yearly progress. Assessments that are in only one format – such as multiple choice questions – do not take into account the variety of learning styles present in every classroom in our country, including for the nearly 7 million students with disabilities and 3 million students with gifts and talents.
 - However, I urge the Department to consider multiple measures beyond simply changing the format of test questions to include other measures that provide a comprehensive picture of children's and schools' performance. For example, other measures may include curriculum based measures, graduation rates, drop out rates, among others.
 - I encourage the Department to include in its final regulations additional language that assessments should utilize the principles of universal design for learning, which increases accessibility for a wide variety of end users.

Proposed Regulations Regarding Subgroup Size (Section 200.7)

- **Summary of proposed change:** The proposed regulation would require each State to submit a revised Accountability Workbook that includes an explanation detailing how the State developed its subgroup size ("N" size) and the number of students excluded from school-level accountability determinations based on the subgroup size.
- **Talking Points:**
 - NCLB has revolutionized how students with disabilities are included in the accountability system. Including students with disabilities and other subgroups in the accountability system, in a meaningful way, helps bring transparency to the education of these students.
 - Addressing the subgroup size goes directly to the heart of inclusion of all students in the accountability system. I am pleased that the Department, in its proposed regulations, has expressed a desire to ensure that all student subgroups are included for purposes of accountability, while balancing statistical reliability and privacy issues.

Proposed Regulations Regarding Participation in the National Assessment of Educational Progress (NAEP/Nation's Report Card) (Section 200.11)

- **Summary of proposed change:** Require a State to report the most recent available academic achievement results from NAEP reading and math assessments on the same public report card as it reports the results of its State assessments.

- **Talking Points:**
 - I support increased transparency to provide educators, parents and the community with a better understanding of student and school performance. To that end, I support making NAEP scores available on the same public report card that provides information on state and local assessments.

Proposed Regulations Regarding the Calculation of High School Graduation Rate and its Use as an Academic Indicator (Section 200.19)

- **Summary of proposed change:** The Department is seeking to make many changes to the high school graduation rate.

- **High school graduation rate definition:** The Department proposes a uniform definition, consistent with the National Governor's Association definition which states, "a graduation rate would be defined as the number of students who graduate in the standard number of years with a regular high school diploma divided by the number of students who form the "adjusted cohort" for that graduating class. The "adjusted cohort" is the group of students who entered 9th grade four years earlier, and any students who transferred into or entered the cohort in grades 9-12, minus any students removed from the cohort."

- **Disaggregation of graduation rates:** This proposal would require each State to calculate the graduation rate at the school, LEA and State levels in the aggregate and the disaggregated by subgroup by 2012-2013 school year.

- **Talking Points:**
 - Under the Individuals with Disabilities Education Act (IDEA), students with disabilities are permitted to continue in their education until their 21st birthday (unless the state decides otherwise). Because of this, it is feasible that some students with disabilities may be in high school longer than four years before they are able to graduate. The proposed regulations detail the definition of graduation rate as being based on the "number of students who graduate in the standard number of years" with a caveat that States may propose an alternative definition of "standard number of years" to apply to limited categories of students.

I am pleased that the Department seems to recognize that students with disabilities who receive regular high school diplomas in over four years, should not be excluded from the graduation rate calculation based on conflicting provisions between IDEA and NCLB.

- Additionally, I am pleased that the Department recognized that some students with gifts and talents may be able to graduate high school in a shorter than average period of time and that the scores of these students would still be included in the graduation rate calculation.

- In considering the development of a uniform high school graduation calculation, I would encourage the Department to support a system of multiple indicators of a student's learning and skills, rather than on one high-stakes test, such as an exit exam.

- In considering the development of a uniform high school graduation calculation, I would encourage the department to allow schools to count toward graduation rates all levels of diplomas at an indexed rate for purposes of accountability.
- I am pleased that the Department is requiring States to disaggregate its graduation rate data by subgroup, thereby making this information increasingly transparent and available to the public.

Proposed Regulations Regarding the Expansion of the Growth Model Pilot Projects (Section 200.20)

- **Summary of proposed change:** The Department is seeking to expand the current growth model pilot program which allows states to track an individual student's progress over time for purposes of accountability – to allow all states to participate.
- **Talking Points:**
 - Allowing schools, LEAs, and States to track an individual students' progress over time holds great promise for better understanding and addressing the academic needs of all students. Through these pilot programs, I urge the Department to consider implications for students with disabilities and/or gifts and talents.

Proposed Regulations Regarding SEA Responsibilities for Supplemental Educational Services (Section 200.47)

- **Summary of proposed change:** The proposed regulations seek to make changes to how States monitor approved providers and how SES providers are approved and monitored.
- **Talking Points:**
 - Supplemental educational service providers must be able to address the unique learning needs of all students – including those with disabilities and/or gifts and talents. An August, 2006 report by the Government Accountability Office (GAO) found that many challenges exist in attracting providers to serve certain areas (i.e. rural districts) and certain populations (i.e. students with disabilities). Consistent with this GAO report, states should ensure that the list of approved providers includes organizations that are able to serve students with disabilities and English language learners.