

**DEPARTMENT OF EDUCATION****34 CFR Part 200**

RIN 1810-AA92

**Title I—Improving the Academic Achievement of the Disadvantaged**

**AGENCY:** Office of Elementary and Secondary Education, Department of Education.

**ACTION:** Notice of proposed rulemaking.

**SUMMARY:** The Secretary proposes to amend the regulations governing the programs administered under Title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA)—referred to in these proposed regulations as the Title I programs. These proposed regulations are needed to implement recent changes to the standards and assessment requirements of Title I of the ESEA made by the No Child Left Behind Act of 2001 (NCLB Act) and were drafted subject to a negotiated rulemaking process.

**DATES:** We must receive your comments on or before June 5, 2002.

**ADDRESSES:** Address all comments about these proposed regulations to Joseph F. Johnson, Jr., Director, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W230, FB-6, Washington, DC 20202-6132. The Fax number for submitting comments is (202) 260-7764. If you prefer to send your comments through the Internet, use the following address: [TitleIRulemaking@ed.gov](mailto:TitleIRulemaking@ed.gov)

If you want to comment on the information collection requirements, you must send your comments to Joseph F. Johnson, Jr. at the address above.

**FOR FURTHER INFORMATION CONTACT:** Susan Wilhelm, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W202, FB-6, Washington, DC 20202-6132. Telephone: (202) 260-0826.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1-800-877-8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotope, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

**SUPPLEMENTARY INFORMATION:****Invitation to Comment**

We invite you to submit comments regarding these proposed regulations. To ensure that your comments have maximum effect in developing the final regulations, we urge you to identify clearly the specific section or sections of the proposed regulations that each comment addresses and to arrange your comments in the same order as the proposed regulations.

During and after the comment period, you may inspect all public comments about these proposed regulations in room 3W204, FB-6, 400 Maryland Avenue, SW., Washington, DC, between the hours of 8:30 a.m. and 4 p.m., Eastern time, Monday through Friday of each week except Federal holidays.

**Assistance to Individuals With Disabilities in Reviewing the Rulemaking Record**

On request, we will supply an appropriate aid, such as a reader or print magnifier, to an individual with a disability who needs assistance to review the comments or other documents in the public rulemaking record for these proposed regulations. If you want to schedule an appointment for this type of aid, please contact the person listed under **FOR FURTHER INFORMATION CONTACT**.

**Background**

The NCLB Act reauthorized the ESEA and incorporated the major educational reforms proposed by President George W. Bush in his No Child Left Behind initiative, particularly with regard to standards and assessment, accountability, and school improvement. These provisions are the centerpiece of Title I, Part A of the ESEA, as amended by the NCLB Act, which is designed to help disadvantaged children meet high academic standards.

These proposed regulations would implement changes to the academic standards and assessment provisions of Title I, Part A of the ESEA in a manner that respects State and local control over education while ensuring strong accountability for results. The Secretary also is considering proposing regulations for other provisions in Title I, Part A of the ESEA. Any additional regulations will be part of a future **Federal Register** document. The Secretary intends to regulate only if absolutely necessary; for example, if the statute requires regulations or if regulations are necessary to provide flexibility or clarification for State and local educational agencies.

Rather than regulating extensively, the Secretary intends to issue

nonregulatory guidance addressing particular legal and policy issues under the Title I programs. This guidance will inform schools, parents, school districts, States, and other affected parties about the flexibility that exists under the statute, including different approaches they may take to carry out the statute's requirements.

**Negotiated Rulemaking**

Section 1901(b) of Title I of the ESEA describes procedures that the Department must follow in developing and issuing regulations to implement the Title I programs. Section 1901(b)(1) requires the Secretary to obtain the advice and recommendations of representatives of Federal, State, and local administrators; parents; teachers; paraprofessionals; members of local boards of education; and other organizations involved with the implementation and operation of Title I programs. Accordingly, the Department published in the **Federal Register** on January 18, 2002 (67 FR 2770) a request for advice and recommendations on regulatory issues concerning Title I. We received 178 responses. To obtain additional advice and recommendations, the Secretary invited a broad spectrum of individuals and organizations affected by the Title I programs to participate in focus group sessions in January and February in Tampa, Florida; New Orleans, Louisiana; Washington, DC; and Denver, Colorado.

After obtaining this advice, the Secretary established a negotiated rulemaking process on the issues of academic standards and assessments in accordance with section 1901(b)(3) of Title I. The Secretary appointed members of a negotiated rulemaking committee (the Committee) to participate in this process. The Committee was made up of 2 representatives of the U.S. Department of Education and 22 individuals from all geographic regions of the United States and was balanced between representatives of parents and students and representatives of educators and education officials. The sessions were held on March 11-13 and 19-20, 2002, near Washington, DC.

Under the Committee's protocols, "consensus" meant the lack of active objection by any Committee member on all issues within a regulatory section. The Committee reached consensus on every issue in the draft regulations that were the subject of its negotiations. The Secretary therefore proposes these negotiated regulations without change, other than those changes needed to

correct technical, punctuation, or grammatical errors.

### Significant Proposed Regulations

We discuss substantive issues under the sections of the proposed regulations to which they pertain. Generally, we do not address proposed regulatory provisions that are technical or otherwise minor in effect.

#### *Section 200.1 State Responsibilities for Developing Challenging Academic Standards*

**Statute:** Under section 1111(b)(1) of Title I, each State must adopt challenging academic content standards and student academic achievement standards (formerly called "student performance standards"). These will be used by the State, its local educational agencies (LEAs), and its schools to carry out Part A (Improving Basic Programs Operated by Local Educational Agencies) of Title I. The State must apply these academic standards to all students and all schools in the State. States must have these standards in subjects determined by the State, but, at a minimum, in mathematics, reading/language arts, and, beginning in the 2005–2006 school year, science. The State's content standards must specify what children are expected to know and be able to do in academic subjects. They must contain coherent and rigorous content and encourage the teaching of advanced skills.

States also must have challenging student academic achievement standards that are aligned with the State's content standards and describe at least three levels of achievement: advanced, proficient, and basic. Advanced and proficient levels determine how well children are mastering the State's content standards. The basic level provides complete information about the progress of lower-performing children toward achieving the proficient and advanced levels.

**Current Regulations:** The current regulations governing State responsibilities for developing academic standards (34 CFR 200.2) reflect provisions of section 1111 of the ESEA that were superseded by the NCLB Act.

**Proposed Regulations:** Proposed § 200.1 would repeat the statutory requirements for States to develop academic content and student academic achievement standards for all schools and all children. It also would clarify that States have the flexibility to develop academic content standards in reading/language arts and mathematics that may cover either each grade specifically or more than one grade. If a State develops academic content

standards that cover more than one grade, the State must have content expectations that indicate to teachers and others the portion of the standards to be taught at each grade level.

Proposed § 200.1 would also clarify that high school standards must reflect what a State expects all high school students to know by the time they graduate, without regard to course titles or years completed. In other words, the focus of high school standards is at least on the broad academic content in mathematics, reading/language arts, and, beginning in 2005–2006 school year, science that a State expects high school students to know, rather than content linked to specific courses, such as Algebra I, or the specific year in which a high school assessment is taken. Proposed § 200.1 also incorporates the Committee's recommendations to clarify that these standards are for all public schools and public school children.

Proposed § 200.1(c)(1)(ii) would specify (1) what academic achievement standards must include and (2) the information that is necessary to demonstrate fulfillment of the statutory requirement to set three levels of achievement based on State standards and assessments.

Proposed § 200.1(c)(2) would specify that, although academic content standards may cover more than one grade, States must have academic achievement standards for each grade and subject assessed. Proposed § 200.1(c)(3) would clarify that, with regard to student achievement standards in science, States must have achievement levels and descriptions of those levels in place by the 2005–2006 school year. The actual assessment scores (called "cut scores" by the assessment community) for those achievement levels, however, would not have to be set until the assessments are due in the 2007–08 school year.

**Reasons:** Proposed § 200.1 reflects the Secretary's goals of providing flexibility while remaining true to statutory intent and providing clarity if the statute is ambiguous. Proposed § 200.1(c)(1)(ii) is designed to address past confusion on the meaning and components of "student academic achievement standards." Proposed § 200.1(c)(3) would address the technical problem that it is not possible to set fully academic achievement standards before assessments are final.

#### *Section 200.2 State Responsibilities for Assessment*

**Statute:** Under section 1111(b)(3) of Title I, each State must implement a set of high-quality, yearly student academic

assessments in, at a minimum, mathematics, reading/language arts, and, by school year 2007–08, science. The State must use these assessments as the primary means of determining the yearly progress of the State, each LEA, and every public school toward enabling all children to meet the State's student academic achievement standards. The State must use the same assessments to measure the achievement of all children; align the assessments with the State's academic content and student achievement standards; and use the assessments for purposes for which they are valid and reliable.

Assessments must involve multiple up-to-date measures of academic achievement, including measures that assess higher-order thinking skills and understanding.

The State must disaggregate the results of assessments within each State, each LEA, and each school by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities compared to nondisabled students, and by economically disadvantaged students compared to students who are not economically disadvantaged.

The State must produce interpretive, descriptive, and diagnostic reports for each student and itemized score analyses that allow parents, teachers, and principals to understand and address the specific academic needs of the student based on his or her achievement against State standards.

**Current Regulations:** The current regulations governing State responsibilities for assessments (34 CFR 200.4) reflect provisions of section 1111 of the ESEA that were superseded by the NCLB Act.

**Proposed Regulations:** Proposed § 200.2 incorporates the statutory requirements for a State to implement a system of high-quality, yearly student academic assessments. The Committee's discussions centered on three provisions, and the proposed regulations reflect the changes recommended by the negotiators:

First, proposed § 200.2(b)(2) would include a requirement that a State's assessment system be designed to be valid and accessible for use with the widest possible range of students, including students with disabilities and students with limited English proficiency.

Second, the Committee incorporated in proposed § 200.2(b)(5) statutory language requiring a State's assessment system to be supported by evidence provided by test publishers or other relevant sources. The additional

provisions would specify that the Secretary would provide this evidence to the public on request, consistent with applicable Federal laws governing the disclosure of information.

Third, proposed § 200.2(b)(10)(v) incorporates the Committee's suggestion to clarify that, for purposes of disaggregating assessment data, students with disabilities are those defined under section 602(3) of the Individuals with Disabilities Education Act.

Proposed § 200.2(b)(8) reflects legislative history from the conference report accompanying the NCLB Act clarifying that the requirement to test only objective knowledge does not prohibit essay responses and opinion questions.

*Reasons:* Proposed § 200.2 reflects the Secretary's goals of providing flexibility while remaining true to statutory intent and providing clarity if the statute is ambiguous. The provision in proposed § 200.2(b)(2) addresses the concern that, often, assessments are not designed to be used for the broadest possible range of students, including students with disabilities and students with limited English proficiency. For example, the design of assessments may not include validation studies with sufficient samples of students with limited English proficiency or students with disabilities, and, thus, may yield invalid results for those populations.

The provisions in proposed § 200.2(b)(5) governing the public availability of certain evidence that supports a State's assessment system represent the Committee's efforts to ensure that the proposed regulations are more clearly aligned with the statutory requirements. The clarification in proposed § 200.2(b)(10)(v) is designed to clarify that under the statute, States, LEAs, and schools would be required to disaggregate results only for children with disabilities as defined under the Individuals with Disabilities Education Act.

#### *Section 200.3 Designing State Academic Assessment Systems; and § 200.4 State Law Exception*

*Statute:* As noted in the discussion under "Section § 200.2 State responsibilities for assessment," section 1111(b)(3) of the ESEA requires each State to implement a set of high-quality, yearly student academic assessments that meet certain requirements.

*Proposed regulations:* Proposed §§ 200.3 and 200.4 would clarify that a State has flexibility in how it sets up its statewide assessment system, but also would establish qualitative criteria that the system must meet to fulfill statutory requirements and ensure that all

students meet challenging State standards. Specifically, proposed § 200.3 would clarify that a State may use different types of assessments as long as each test (for each grade and subject) fully addresses the depth and breadth of the State's academic content standards; is valid, reliable, and of high technical quality; and expresses results in terms of the State's academic achievement standards.

If a State uses only assessments referenced against national norms at a particular grade, these assessments would have to be augmented with additional items as necessary to (1) measure accurately the depth and breadth of the State's academic content standards and (2) express results in terms of the State's academic achievement levels.

If a State includes a combination of assessments (whether different State assessments or State and local assessments), the State must demonstrate (1) that the design is rational and coherent, (2) that the assessments work together to assess fully the State's academic content standards, and (3) that the assessments measure adequate yearly progress, as well as student progress towards meeting the State's standards.

A State would be permitted to include locally designed assessments if the State assumed responsibility for: (1) Setting technical criteria; (2) ensuring that the assessments are equivalent to one another and to State assessments, if any, in content coverage, difficulty, and quality; (3) reviewing and approving each assessment; and (4) ensuring that data from all assessments can be aggregated to make a fair, rational, and equitable determination of adequate yearly progress for school districts and schools. When aggregating data from different assessments, a State must be able to demonstrate that results are sufficiently comparable to be aggregated. Such evidence might include data analysis and analyses by psychometricians with experience in large-scale assessments. The Committee spent a substantial amount of time on these provisions trying to make them as clear as possible.

Proposed § 200.4(a) clarifies that if a State is prohibited by State law from establishing a statewide assessment system, the State would be excepted from the requirement for a single statewide system. Instead, that State could establish a statewide system composed of only local standards and assessments. The State would have to meet the same qualitative criteria that other States must meet with regard to

inclusion of local assessments in an overall State accountability framework.

*Reasons:* Proposed §§ 200.3 and 200.4 would permit States considerable flexibility in designing State academic assessment systems consistent with the statutory provisions.

#### *Section 200.5 Timeline for Assessments*

*Statute:* Under section 1111(b)(3)(C) of the Act, a State must administer assessments consistent with a specified timeline. The statute establishes a three-stage timeline for developing and administering assessments:

- In stage one, through school year 2004–2005, the State must administer the yearly assessments in mathematics and reading/language arts at least once during each of three grade groupings: (1) Grades 3 through 5, (2) grades 6 through 9, and (3) grades 10 through 12.
- In stage two, beginning no later than school year 2005–2006, annually, the State must administer the yearly assessments in mathematics and reading/language arts, at a minimum, in each of grades 3 through 8 and once during grades 10 through 12.
- In stage three, beginning no later than school year 2007–2008, in addition to the assessments required in stage two, the State must administer the yearly assessments that measure proficiency in science at least once during each of three grade groupings: (1) Grades 3 through 5, (2) grades 6 through 9, and (3) grades 10 through 12.

*Proposed regulations:* Proposed § 200.5 describes the statutory timelines for administering assessments. In particular, it would clarify that, beginning no later than the 2005–06 school year, States must administer yearly assessments in both reading/language arts and in mathematics in each of the required grades 3 through 8 and at least once in grades 10 through 12. It would include the statutory requirement that a State provide assessment results to school districts, schools, and teachers no later than the beginning of the next school year. It would clarify that this requirement starts beginning with the 2002–2003 school year.

*Reasons:* Proposed § 200.5 is designed to clarify that the assessments in reading/language arts and mathematics are both to be administered each year as opposed to administering the reading/language arts assessment one year and the mathematics assessment in alternate years. It also clarifies the starting date for the requirement to provide assessment results no later than the beginning of the next school year.

*Section 200.6 Inclusion of All Students*

*Statute:* A State's assessment system must provide for the inclusion of all students and provide appropriate accommodations for students with disabilities, as defined under section 602(3) of the Individuals with Disabilities Education Act, and students with limited English proficiency.

Moreover, to the extent practicable, a State must assess students with limited English proficiency in the language and form most likely to yield accurate data on what those students know and can do in academic content areas until they have achieved English proficiency. With respect to reading/language arts, a State must assess students with limited English proficiency who have attended schools in the United States (excluding Puerto Rico) for three or more consecutive school years in English. If an LEA determines, on a case-by-case basis, however, that academic assessments in another language would likely yield more accurate and reliable information, the LEA may use those assessments for up to an additional two years.

*Proposed Regulations:* Proposed § 200.6 incorporates and clarifies the requirement that State assessment systems include all students and provide appropriate accommodations for students with disabilities. Proposed § 200.6(a) was the subject of substantial discussion by the Committee. At the Committee's suggestion, the proposed regulations would specify that the accommodations for students with disabilities be those that each student's IEP team determines are necessary to measure the student's academic achievement relative to the State's academic content and achievement standards for the grade in which the student is enrolled.

The proposed regulations also would clarify that a State's assessment system is to provide appropriate accommodations for students covered under section 504 of the Rehabilitation Act of 1973. The proposed regulations would specify that each student's placement team determines which accommodations are necessary to measure the student's academic achievement relative to the State's academic content and achievement standards for the grade in which the student is enrolled.

Proposed § 200.6(a)(2) reflects the Committee's consensus that a State's academic assessment system must provide one or more alternate assessments for those students with disabilities (as defined under section 602(3) of the Individuals with

Disabilities Education Act), who, in the determination of the student's IEP team, cannot participate in all or part of the State assessments, even with appropriate accommodations.

This section would clarify that alternate assessments must yield results in at least reading/language arts, mathematics, and, beginning in the 2007–2008 school year, science. The Committee recommended that this provision be further clarified in future guidance to indicate that a State may use the same alternate assessment for reading and mathematics and, beginning in the 2007–2008 school year, science.

Proposed § 200.6(b) would also clarify the statutory provisions regarding the assessment of children with limited English proficiency. The proposed regulations would make clear that this requirement does not exempt a State from assessing limited English proficient students before those students are required to be assessed in English in reading/language arts. The proposed regulations would require a State to assess limited English proficient students in a valid and reliable manner that includes reasonable accommodations and, to the extent practicable, assessments in native language, if they would yield better information on what those students know. The proposed regulations would also require the State to assess limited English proficient students' achievement in English in reading/language arts if those students have been in schools in the United States (except Puerto Rico) for three or more consecutive years.

Proposed § 200.6(c) would clarify that migrant and other mobile students must be assessed even if they are not included for accountability purposes. The Committee agreed to expand this section to clarify that a State must include homeless children (as defined in section 725(2) of Title VII, Subtitle B of the McKinney-Vento Homeless Assistance Act) in its State assessment, reporting, and accountability systems, consistent with the requirements of the statute addressing mobile students. In other words, homeless students who are mobile must be tested, but their results do not need to be included in determining adequate yearly progress. Non-mobile homeless students must be tested and their results included in accountability.

*Reasons:* The proposed clarifications in § 200.6(a)(1) reflect the Committee's concern that students covered by section 504 of the Rehabilitation Act of 1973 are not necessarily students with disabilities under section 602(3) of the Individuals with Disabilities Education

Act, yet they may need accommodations to ensure that they can participate in a State's assessment system. Proposed § 200.6(a)(1)(i) and (a)(1)(ii) require that accommodations permit measurement of a student's academic achievement relative to grade-level academic content and achievement standards. These provisions reflect the Committee's concerns that the statute's requirements for rigorous accountability for all students not be diluted by permitting accommodations that would evaluate against lower standards students taking assessments with accommodations.

The Committee's recommendation for future guidance to clarify that a State may use the same alternate assessment for reading/language arts and mathematics recognizes a practice already in place in some States. The clarification on including students with limited English proficiency in State assessment systems was designed to eliminate the potential misunderstanding that these students might be exempt from all assessments until they are required to be tested in English in reading/language arts.

*Section 200.7 Disaggregation of Data*

*Statute:* The statute requires, for purposes of determining adequate yearly progress, measurement of the achievement of all public elementary and secondary school students, economically disadvantaged students, students from major racial and ethnic groups, students with disabilities, and students with limited English proficiency. The statute also requires disaggregation and reporting of assessment results by gender, by each major racial and ethnic group, by English proficiency status, by migrant status, by students with disabilities as compared to nondisabled students, and by economically disadvantaged students as compared to students who are not economically disadvantaged. For all of these purposes, disaggregation by these groups would not be required if the numbers are too small to yield reliable information or if the results would reveal personally identifiable information about an individual student.

*Proposed Regulations:* Proposed § 200.7 would clarify that, in disaggregating data, a State is responsible for determining how many students constitute a sufficient number to make the results reliable for accountability and reporting purposes. It also would clarify that a State must apply section 444(b) of the General Education Provisions Act (the Family Educational Rights and Privacy Act) in determining whether disaggregated data

would reveal personally identifiable information. The proposed regulations would require a State to make every effort to maximize disaggregation of data, while meeting the requirements for privacy and statistical reliability.

*Reasons:* By allowing a State to establish the minimum numbers for determining reliable disaggregated data, the proposed provisions offer flexibility and acknowledge that these minimums may vary according to circumstance or location.

#### *Section 200.8 Assessment Reports*

*Statute:* A State assessment system must be able to produce student reports and itemized score analyses.

*Proposed Regulations:* Proposed § 200.8 addresses the types of reports that a State's assessment system must produce. The proposed regulations would clarify that individual student reports must describe achievement measured against the State's academic achievement standards. The proposed regulations also would clarify that the requirement for producing and reporting analyses of student scores does not require the State to release individual test items.

*Reasons:* Proposed § 200.8 is intended to provide greater clarity regarding the statutory requirements pertaining to student reports and itemized score analyses.

#### *Section 200.9 Deferral of Assessments*

*Statute:* Under section 1111(b)(3)(D) of the ESEA, a State may defer the commencement, or suspend the administration, of certain assessments for each year that the amount appropriated at the Federal level for assessment development falls below a specified minimum. The State may not, however, cease the development of its assessments even if sufficient funds are not appropriated.

*Proposed regulations:* Proposed § 200.9(b) would clarify that the statute requires a State to continue to develop assessments if amounts appropriated at the Federal level for assessments are below a certain minimum.

*Reasons:* Proposed § 200.9 is intended to make the intent of this provision more clear and avoid confusion.

#### *Section 200.10 Applicability of a State's Academic Assessments to Private Schools and Private School Students*

*Statute:* Under section 9506 of the ESEA, a student who attends a private school that does not receive funds or services under the ESEA is not required to participate in any assessment referred to in the ESEA.

*Proposed Regulations:* Proposed § 200.10 is designed to clarify that nothing in proposed § 200.2 would require a private school to participate in a State's assessment system. However, through timely consultation with private school officials, an LEA must determine how it will assess academic services to participating private school students and how it will use the assessment results to improve services to these children. The assessments used could be the State's academic assessments under proposed § 200.2 or other appropriate academic assessments.

*Reasons:* The proposed regulations would clarify the flexibility given to an LEA in determining how services to participating private school students will be assessed.

#### *Executive Order 12866*

##### *1. Potential Costs and Benefits*

The proposed costs have been reviewed in accordance with Executive Order 12866. Under the terms of the Order, the Secretary has assessed the costs and benefits of this regulatory action.

The standards and assessments requirements of the new legislation require States to develop additional standards in the area of science, and many States will also need to develop and implement new assessments in order to meet the statutory requirement that they put in place assessments, at least in reading/language and mathematics, in grades 3 through 8. These new requirements will impose costs on States, with the precise amount of these costs dependent on State decisions about the types of assessments they will adopt, whether they will develop these assessments on their own or in partnership with other States, and other factors. The Federal Government is financing the development and implementation of the additional standards and assessments through appropriations for Elementary and Secondary Education programs. The Secretary believes that the costs not met through Federal funding are likely to be minimal, depending on the level of Federal funding Congress provides through appropriations.

The new legislation, and the regulations, also convey major benefits on States. The Department is providing increased support for State and local efforts to raise educational achievement for all students. The standards and assessment requirements of Title I are also part of a package of reforms that includes major new provisions allowing increased State and local flexibility in

the use of Federal education funds. These provisions will not only allow States and school districts to use Federal funds in a manner more consistent with their own reform strategies and priorities, they will save money normally spent in complying with multiple Federal requirements. While most of the benefits of the new law are conveyed by the statute, the regulations proposed through this notice would also result in cost savings, by allowing States considerable flexibility in adopting assessment systems composed entirely of State-developed and administered tests, or systems composed of both State and local tests, and by allowing a combination of criterion- and norm-referenced tests, so long as mixed systems meet certain basic requirements.

For these reasons, the Secretary has concluded that these regulations are justified in terms of the costs and benefits.

#### *Summary of Potential Costs and Benefits*

Because the Secretary has chosen to regulate on very few statutory provisions, States and LEAs have considerable flexibility in implementing the provisions of Title I to meet their particular needs and circumstances. Moreover, the potential costs associated with the proposed regulations are minimal.

##### *2. Clarity of the Regulations*

Executive Order 12866 and the Presidential Memorandum on "Plain Language in Government Writing" require each agency to write regulations that are easy to understand.

The Secretary invites comments on how to make these proposed regulations easier to understand, including answers to questions such as the following:

- Are the requirements in the proposed regulations clearly stated?
- Do the proposed regulations contain technical terms or other wording that interferes with their clarity?
- Does the format of the proposed regulations (grouping and order of sections, use of headings, paragraphing, etc.) aid or reduce their clarity?
- Would the proposed regulations be easier to understand if we divided them into more (but shorter) sections? (A "section" is preceded by the symbol "\$" and a numbered heading; for example, § 200.1 State responsibilities for developing challenging academic standards.)
- Could the description of the proposed regulations in the "Supplementary Information" section of this preamble be more helpful in

making the proposed regulations easier to understand? If so, how?

- What else could we do to make the proposed regulations easier to understand?

Send any comments that concern how the Department could make these proposed regulations easier to understand to the person listed in the **ADDRESSES** section of the preamble.

#### *Regulatory Flexibility Act Certification*

The Secretary certifies that these proposed regulations would not have a significant economic impact on a substantial number of small entities. The small entities that would be affected by these proposed regulations are small LEAs receiving Federal funds under this program. However, the regulations would not have a significant economic impact on the small LEAs affected because the regulations would not impose excessive regulatory burdens or require unnecessary Federal supervision. The regulations would impose minimal requirements to ensure the proper expenditure of program funds.

#### *Paperwork Reduction Act of 1995*

The proposed regulations contain two information collection requirements. Under proposed §§ 200.6(b)(1)(ii) and 200.7(a)(2), a State must include several items in its Title I State plan. First, a State must identify languages other than English that are present in the student population served by the State educational agency and indicate the languages for which student academic assessments are not available and are needed. Second, a State must determine and justify in its State plan the minimum number of students sufficient to yield statistically reliable information for each purpose under the statute where disaggregated data are used.

Title IX, Part C of the ESEA, as amended by the NCLB Act, authorizes the Secretary to provide States with the option of submitting a consolidated application to obtain certain ESEA funds, including Title I funds. The Department is in the process of obtaining Office of Management and Budget (OMB) approval for the clearance package addressing the paperwork requirements for a consolidated application on an emergency basis. That package incorporates the Title I State plan requirements proposed in this regulation. We invite comments on the paperwork requirements of this proposed regulation. These written comments should be addressed to Joseph F. Johnson, Jr. at the address listed under **ADDRESSES**.

#### *Electronic Access to This Document*

You may view this document, as well as all other Department of Education documents published in the **Federal Register**, in text or Adobe Portable Document Format (PDF) on the Internet at the following site: [www.ed.gov/legislation/FedRegister](http://www.ed.gov/legislation/FedRegister)

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(Catalog of Federal Domestic Assistance Numbers: 84.010 Improving Programs Operated by Local Educational Agencies)

#### **List of Subjects in 34 CFR Part 200**

Administrative practice and procedure, Adult education, Children, Coordination, Education, Education of disadvantaged children, Education of children with disabilities, Elementary and secondary education, Eligibility, Family, Family-centered education, Grant programs-education, Indians-education, Institutions of higher education, Interstate coordination, Intrastate coordination, Juvenile delinquency, Local educational agencies, Migratory children, Migratory workers, Neglected, Nonprofit private agencies, Private schools, Public agencies, Reporting and recordkeeping requirements, State-administered programs, State educational agencies, Subgrants.

Dated: May 1, 2002.

**Rod Paige,**  
*Secretary of Education.*

The Secretary proposes to amend part 200 of title 34 of the Code of Federal Regulations as follows:

#### **PART 200—TITLE I—IMPROVING THE ACADEMIC ACHIEVEMENT OF THE DISADVANTAGED**

1. The authority citation for part 200 is revised to read as follows:

**Authority:** 20 U.S.C. 6301 through 6578, unless otherwise noted.

2. Revise the first undesignated center heading in subpart A of this part to read as follows:

#### **Standards and Assessments**

3. Revise §§ 200.1 through 200.6, to read as follows:

##### **§ 200.1 State responsibilities for developing challenging academic standards.**

(a) *Academic standards in general.* A State must develop challenging academic content and student academic achievement standards that will be used by the State, its local educational agencies (LEAs), and its schools to carry out subpart A of this part. These academic standards must—

(1) Be the same academic standards that the State applies to all public schools and public school children in the State, including the public schools and public school children served under subpart A of this part;

(2) Include the same knowledge, skills, and levels of achievement expected of all children; and

(3) Include at least mathematics, reading/language arts, and, beginning in the 2005–2006 school year, science, and may include other subjects determined by the State.

(b) *Academic content standards.* (1) The challenging academic content standards required under paragraph (a) of this section must—

(i) Specify what all children are expected to know and be able to do;

(ii) Contain coherent and rigorous content; and

(iii) Encourage the teaching of advanced skills.

(2) A State's academic content standards may be grade specific or, if grade-level content expectations are provided for each of grades 3 through 8, may cover more than one grade.

(3) At the high school level, the academic content standards must define the knowledge and skills that all high school students are expected to know and be able to do in at least reading/language arts, mathematics, and, beginning in the 2005–06 school year, science, irrespective of course titles or years completed.

(c) *Academic achievement standards.*

(1) The challenging student academic achievement standards required under paragraph (a) of this section must—

(i) Be aligned with the State's academic content standards; and

(ii) Include the following components for each content area:

(A) Achievement levels that describe at least—

(1) Two levels of high achievement—proficient and advanced—that determine how well children are mastering the material in the State's academic content standards; and

(2) A third level of achievement—basic—to provide complete information

about the progress of lower-achieving children toward mastering the proficient and advanced levels of achievement.

(B) Descriptions of the competencies associated with each achievement level.

(C) Assessment scores ("cut scores") that differentiate among the achievement levels as specified in paragraph (c)(1)(ii)(A) of this section, and a description of the rationale and procedures used to determine each achievement level.

(2) A State must develop academic achievement standards for every grade and subject assessed, even if the State's academic content standards cover more than one grade.

(3) With respect to academic achievement standards in science, a State must develop—

(i) Achievement levels and descriptions no later than the 2005–06 school year; and

(ii) Assessment scores ("cut scores") after the State has developed its science assessments but no later than the 2007–08 school year.

(d) *Subjects without standards.* If an LEA serves students under subpart A of this part in subjects for which a State has not developed academic standards, the State must describe in its State plan a strategy for ensuring that those students are taught the same knowledge and skills and held to the same expectations in those subjects as are all other students.

(Authority: 20 U.S.C. 6311(b)(1))

#### **§ 200.2 State responsibilities for assessment.**

(a)(1) Each State, in consultation with its LEAs, must implement a system of high-quality yearly student academic assessments that includes, at a minimum, academic assessments in mathematics, reading/language arts and, beginning in the 2007–08 school year, science.

(2) The State may also measure the achievement of students in other academic subjects in which the State has adopted challenging academic content and student academic achievement standards.

(b) The assessment system required under this section must meet the following requirements:

(1) Be the same assessment system used to measure the achievement of all students in accordance with § 200.3 or § 200.4.

(2) Be designed to be valid and accessible for use by the widest possible range of students, including students with disabilities and students with limited English proficiency.

(3)(i) Be aligned with the State's challenging academic content and

student academic achievement standards; and

(ii) Provide coherent information about student attainment of those standards.

(4)(i) Be used for purposes for which the assessment system is valid and reliable; and

(ii) Be consistent with relevant, nationally recognized professional and technical standards.

(5) Be supported by evidence (which the Secretary will provide upon request, consistent with applicable federal laws governing the disclosure of information) from test publishers or other relevant sources that the assessment system is—

(i) Of adequate technical quality for each purpose required under the Act; and

(ii) Consistent with the requirements of this section.

(6) Be administered in accordance with the timeline in § 200.5.

(7) Involve multiple up-to-date measures of student academic achievement, including measures that assess higher-order thinking skills and understanding of challenging content.

(8) Objectively measure academic achievement, knowledge, and skills without evaluating or assessing personal or family beliefs and attitudes, except that this provision does not preclude the use of items—

(i) Such as constructed-response, short answer, or essay; or

(ii) That require a student to analyze a passage of text or to express opinions.

(9) Provide for participation in the assessment system of all students in the grades being assessed consistent with § 200.6.

(10) Except as provided in § 200.7, enable results to be disaggregated within each State, LEA, and school by—

(i) Gender;

(ii) Each major racial and ethnic group;

(iii) English proficiency status;

(iv) Migrant status as defined in Title I, Part C of the Act;

(v) Students with disabilities as defined under section 602(3) of the Individuals with Disabilities Education Act as compared to all other students; and

(vi) Economically disadvantaged students as compared to students who are not economically disadvantaged.

(11) Produce individual student reports consistent with § 200.8(a).

(12) Enable itemized score analyses to be produced and reported to LEAs and schools consistent with § 200.8(b).

(c) The State may include academic assessments that do not meet the requirements in paragraph (b) of this section in the assessment system as

additional measures. Those additional assessments—

(1) May not reduce the number, or change the identity, of schools that would otherwise be subject to school improvement, corrective action, or restructuring under section 1116 of Title I of the Elementary and Secondary Education Act, as amended by the NCLB Act (hereinafter "the Act"), if those assessments were not used; but

(2) May identify additional schools for school improvement, corrective action, or restructuring.

(Authority: 20 U.S.C. 6311(b)(3))

#### **§ 200.3 Designing State Academic Assessment Systems.**

(a)(1) For each grade and subject assessed, a State's assessments must—

(i) Address the depth and breadth of the State's academic content standards under § 200.1(b);

(ii) Be valid, reliable, and of high technical quality;

(iii) Express student results in terms of the State's student academic achievement standards; and

(iv) Be designed to provide a coherent system across grades and subjects.

(2) A State may include in its academic assessment system under § 200.2 either or both—

(i) Criterion-referenced assessments; and

(ii) Assessments that yield national norms, provided that, if the State uses only assessments referenced against national norms at a particular grade, those assessments—

(A) Are augmented with additional items as necessary to measure accurately the depth and breadth of the State's academic content standards; and

(B) Express student results in terms of the State's academic achievement standards.

(b) A State that includes a combination of assessments, as described in paragraph (a)(2) of this section, or a combination of State and local assessments in its State assessment system must demonstrate that the system has a rational and coherent design that—

(1) Identifies the assessments to be used;

(2) Indicates the relative contribution of each assessment towards—

(i) Ensuring alignment with the State's academic content standards; and

(ii) Determining the adequate yearly progress of each school and LEA; and

(3) Is able to provide information regarding the progress of students relative to the State's academic standards in order to inform instruction.

(c) A State that includes local assessments in the assessment of its content standards must—

(1) Establish technical criteria to ensure that each local assessment meets the requirements of paragraph (a)(2) of this section;

(2) Demonstrate that all local assessments in use for this purpose—

(i) Are equivalent to one another and to State assessments, where they exist, in their content coverage, difficulty, and quality;

(ii) Have comparable validity and reliability with respect to groups of students described in section 1111(b)(2)(C)(v) of the Act; and

(iii) Provide unbiased, rational, and consistent determinations of the annual progress of schools and LEAs within the State;

(3) Review and approve each local assessment to ensure that it meets or exceeds the State's technical criteria in paragraph (c)(1) of this section and the requirements in paragraph (c)(2) of this section; and

(4) Be able to aggregate, with confidence, data from local assessments to determine whether the State has made adequate yearly progress.

(d) A State's academic assessment system may rely exclusively on local assessments only if it meets the requirements of § 200.4.

(Authority: 20 U.S.C. 6311(b)(3))

#### § 200.4 State law exception.

(a) If a State provides satisfactory evidence to the Secretary that neither the SEA nor any other State government official, agency, or entity has sufficient authority under State law to adopt academic content standards, student academic achievement standards, and academic assessments applicable to all students enrolled in the State's public schools, the State may meet the requirements under §§ 200.1 and 200.2 by—

(1) Adopting academic standards and academic assessments that meet the requirements of §§ 200.1 and 200.2 on a Statewide basis and limiting their applicability to students served under subpart A of this part; or

(2) Adopting and implementing policies that ensure that each LEA in the State that receives funds under subpart A of this part will adopt academic standards and academic assessments aligned with those standards that—

(i) Meet the requirements in §§ 200.1 and 200.2; and

(ii) Are applicable to all students served by the LEA.

(b) A State that qualifies under paragraph (a) of this section must—

(1) Establish technical criteria for evaluating whether each LEA's—

(i) Academic content and student academic achievement standards meet the requirements in § 200.1; and

(ii) Academic assessments meet the requirements in § 200.2, particularly regarding validity and reliability, technical quality, alignment with the LEA's academic standards, and inclusion of all students in the grades assessed;

(2) Review and approve each LEA's academic standards and academic assessments to ensure that they—

(i) Meet or exceed the State's technical criteria; and

(ii) For purposes of this section—

(A) Are equivalent to one another in their content coverage, difficulty, and quality;

(B) Have comparable validity and reliability with respect to groups of students described in section 1111(b)(2)(C)(v) of the Act; and

(C) Provide unbiased, rational, and consistent determinations of the annual progress of LEAs and schools within the State; and

(3) Be able to aggregate, with confidence, data from local assessments to determine whether the State has made adequate yearly progress.

(Authority: 20 U.S.C. 6311(b)(5))

#### § 200.5 Timeline for assessments.

(a) *Reading/language arts and mathematics.* (1) Through no later than the 2004–2005 school year, a State must administer the assessments required under § 200.2 not less than one time during—

(i) Grades 3 through 5;

(ii) Grades 6 through 9; and

(iii) Grades 10 through 12.

(2) Except as provided in paragraph (a)(3) of this section, beginning no later than the 2005–2006 school year, a State must administer both the reading/language arts and mathematics assessments required under § 200.2—

(i) In each of grades 3 through 8; and

(ii) At least once in grades 10 through 12.

(3) The Secretary may extend, for one additional year, the timeline in paragraph (a)(2) of this section if a State demonstrates that—

(i) Full implementation is not possible due to exceptional or uncontrollable circumstances such as—

(A) A natural disaster; or

(B) A precipitous and unforeseen decline in the financial resources of the State; and

(ii) The State can complete implementation within the additional one-year period.

(b) *Science.* Beginning no later than the 2007–2008 school year, the assessments required under § 200.2

must be administered not less than one time during—

(1) Grades 3 through 5;

(2) Grades 6 through 9; and

(3) Grades 10 through 12.

(c) *Timing of results.* Beginning with the 2002–2003 school year, a State must promptly provide the results of its assessments no later than before the beginning of the next school year to LEAs, schools, and teachers in a manner that is clear and easy to understand.

(Authority: 20 U.S.C. 6311(b)(3))

#### § 200.6 Inclusion of all students.

A State's academic assessment system required under § 200.2 must provide for the participation of all students in the grades assessed.

(a) *Students eligible under IDEA and Section 504.* (1) *Appropriate accommodations.* A State's academic assessment system must provide—

(i) For each student with disabilities, as defined under section 602(3) of the Individuals with Disabilities Education Act, appropriate accommodations that each student's IEP team determines are necessary to measure the academic achievement of the student relative to the State's academic content and achievement standards for the grade in which the student is enrolled, consistent with § 200.1(b)(2), (b)(3), and (c); and

(ii) For each student covered under section 504 of the Rehabilitation Act of 1973, appropriate accommodations that each student's placement team determines are necessary to measure the academic achievement of the student relative to the State's academic content and achievement standards for the grades in which the student is enrolled, consistent with § 200.1(b)(2), (b)(3), and (c).

(2) *Alternate assessment.*

(i) The State's academic assessment system must provide for one or more alternate assessments for each student with disabilities as defined under section 602(3) of the Individuals with Disabilities Education Act who the student's IEP team determines cannot participate in all or part of the State assessments under paragraph (a)(1) of this section, even with appropriate accommodations.

(ii) Alternate assessments must yield results in at least reading/language arts, mathematics, and, beginning in the 2007–2008 school year, science.

(b) *Limited English proficient students.* A State must include limited English proficient students in its academic assessment system as follows:

(1) *In general.* (i) Consistent with paragraph (b)(2) of this section, the State must assess limited English proficient

students in a valid and reliable manner that includes—

(A) Reasonable accommodations; and

(B) To the extent practicable, assessments in the language and form most likely to yield accurate and reliable information on what those students know and can do to determine the students' mastery of skills in subjects other than English until the students have achieved English language proficiency.

(ii) In its State plan, the State must—

(A) Identify the languages other than English that are present in the student population served by the SEA; and

(B) Indicate the languages for which yearly student academic assessments are not available and are needed.

(iii) The State—

(A) Must make every effort to develop such assessments; and

(B) May request assistance from the Secretary if linguistically accessible academic assessment measures are needed.

(2) *Assessing reading/language arts in English.* (i) Unless an extension of time is warranted under paragraph (b)(2)(ii) of this section, a State must assess, using assessments written in English, the achievement of any limited English proficient student in meeting the State's reading/language arts academic standards if the student has attended schools in the United States, excluding Puerto Rico, for three or more consecutive years.

(ii) An LEA may continue, for no more than two additional consecutive years, to assess a limited English proficient student under paragraph (b)(1) of this section if the LEA determines, on a case-by-case individual basis, that the student has not reached a level of English language proficiency sufficient to yield valid and reliable information on what the student knows and can do on reading/language arts assessments written in English.

(iii) The requirements in paragraph (b)(2)(i) and (ii) of this section do not permit an exemption from participating in the State assessment system for limited English proficient students.

(3) *Assessing English proficiency.* (i) Unless a State receives an extension under paragraph (b)(3)(ii) of this section the State must require each LEA, beginning no later than the 2002–2003 school year, to assess annually the English proficiency, including reading, writing, speaking, and listening skills, of all students with limited English proficiency in schools in the LEA.

(ii) The Secretary may extend, for one additional year, the deadline in paragraph (b)(3)(i) of this section if the State demonstrates that—

(A) Full implementation is not possible due to exceptional or uncontrollable circumstances such as—

(1) A natural disaster; or

(2) A precipitous and unforeseen decline in the financial resources of the State; and

(B) The State can complete implementation within the additional one-year period.

(c) *Migrant and other mobile children.*

A State must include migrant children, as defined in Title I, Part C, of the Act, and other mobile children in its academic assessment system, even if those students are not included for accountability purposes under section 1111(b)(3)(C)(xi) of the Act.

(d) *Children experiencing homelessness.*

(1) A State must include homeless children, as defined in section 725(2) of Title VII, Subtitle B of the McKinney-Vento Act, in its academic assessment, reporting, and accountability systems, consistent with section 1111(b)(3)(C)(xi) of the Act.

(2) The State is not required to report as a separate disaggregated category as defined in paragraph (b)(10) of this section the assessment results of the children referred to in paragraph (d)(1) of this section.

(Authority: 20 U.S.C. 6311(b)(3))

4. Add § 200.7 to read as follows:

#### § 200.7 Disaggregation of data.

(a) *Statistically reliable information.*

(1) A State may not use disaggregated data for one or more subgroups under § 200.2(b)(10) to report achievement results under section 1111(h) of the Act (report cards) or to identify schools in need of improvement, corrective action, or restructuring under section 1116 of the Act if the number of students in those subgroups is insufficient to yield statistically reliable information.

(2) Based on sound statistical methodology, a State must determine and justify in its State plan the minimum number of students sufficient to yield statistically reliable information for each purpose for which disaggregated data are used.

(b) *Personally identifiable information.* (1) A State may not use disaggregated data for one or more subgroups under § 200.2(b)(10) to report achievement results under section 1111(h) of the Act (report cards) if the results would reveal personally identifiable information about an individual student.

(2) To determine whether disaggregated results would reveal personally identifiable information about an individual student, a State

must apply the requirements under section 444(b) of the General Education Provisions Act (the Family Educational Rights and Privacy Act of 1974).

(3) Nothing in paragraph (b)(1) or (b)(2) of this section shall be construed to abrogate the responsibility of States to implement the requirements of section 1116(a) of the Act for determining whether States, LEAs, and schools are making adequate yearly progress on the basis of the performance of each group listed in section 1111(b)(2)(C)(v)(II) of the Act.

(4) Each State shall include in its State plan, and each State and LEA shall implement, appropriate strategies to protect the privacy of individual students in reporting achievement data under section 1111(h) of the Act and in determining whether schools and LEAs are making adequate yearly progress on the basis of disaggregated groups under section 1111(b)(2)(C)(v)(II) of the Act.

(Authority: 20 U.S.C. 6311(b)(3); 1232g)

5. Revise § 200.8 and place it under the undesignated center heading “Standards and Assessments” to read as follows:

#### § 200.8 Assessment reports.

(a) *Student reports.* A State's academic assessment system must produce individual student interpretive, descriptive, and diagnostic reports that—

(1)(i) Include information regarding achievement on the academic assessments under § 200.2 measured against the State's student academic achievement standards; and

(ii) Help parents, teachers, and principals to understand and address the specific academic needs of students; and

(2) Are provided to parents, teachers, and principals—

(i) As soon as is practicable after the assessment is given;

(ii) In an understandable and uniform format; and

(iii) To the extent practicable, in a language that parents can understand.

(b) *Itemized score analyses for LEAs and schools.* (1) A State's academic assessment system must produce and report to LEAs and schools itemized score analyses, consistent with § 200.2(b)(4), so that parents, teachers, principals, and administrators can interpret and address the specific academic needs of students.

(2) The requirement to report itemized score analyses in paragraph (b) of this section does not require the release of test items.

(Authority: 20 U.S.C. 6311(b)(3))

6. Add § 200.9 under the undesignated center heading “Standards and Assessments” to read as follows:

**§ 200.9 Deferral of assessments.**

(a) A State may defer the start or suspend the administration of the assessments required under § 200.2 that were not required prior to the date of enactment of the Act for one year for each year for which the amount appropriated for State assessment grants under section 6113(a)(2) of the Act is less than the trigger amount in section 1111(b)(3)(D) of the Act.

(b) A State may not cease the development of the assessments referred to in paragraph (a) of this section even if sufficient funds are not appropriated under section 6113(a)(2) of the Act.

(Authority: 20 U.S.C. 6311(b)(3); 7301b(a)(2))

7. Revise § 200.10 and place it under the undesignated center heading “Standards and Assessments” to read as follows:

**§ 200.10 Applicability of a State’s academic assessments to private schools and private school students.**

(a) Nothing in § 200.1 or § 200.2 requires a private school, including a private school whose students receive services under this part, to participate in a State’s academic assessment system.

(b)(1) If an LEA provides services to eligible private school students under subpart A of this part, the LEA must, through timely consultation with appropriate private school officials, determine how services to eligible private school students will be academically assessed and how the results of that assessment will be used to improve those services.

(2) The assessments referred to paragraph (b)(1) of this section may be the State’s academic assessments under § 200.2 or other appropriate academic assessments.

(Authority: 20 U.S.C. 7886(a))

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**DEPARTMENT OF EDUCATION**

**34 CFR Part 200**

**Office of Elementary and Secondary Education; Title I of the Elementary and Secondary Education Act of 1965, as Amended (ESEA); Improving the Academic Achievement of the Disadvantaged**

**AGENCY:** Department of Education.

**ACTION:** Notice of meetings to solicit public comment on proposed regulations.

**SUMMARY:** The Assistant Secretary for Elementary and Secondary Education (Assistant Secretary) of the Department of Education (Department) will convene five regional meetings to solicit additional public comment on the Department’s Notice of Proposed Rulemaking (NPRM) published elsewhere in this issue of the **Federal Register**. The NPRM would implement recent changes made by the No Child Left Behind Act of 2001 (NCLB Act) to the standards and assessment requirements under Title I of the Elementary and Secondary Education Act of 1965, as amended (ESEA). The proposed regulations were subjected to a negotiated rulemaking process, and we invited the public to submit comments on them. The Assistant Secretary is convening these regional meetings to provide the public additional opportunities to comment on the proposed regulations.

**DATES:** We will hold five regional meetings as listed in the Schedule of Regional Meetings under **SUPPLEMENTARY INFORMATION**.

**ADDRESSES:** We will hold the five regional meetings at the locations listed in the Schedule of Regional Meetings under **SUPPLEMENTARY INFORMATION**.

**FOR FURTHER INFORMATION CONTACT:** Susan Wilhelm, Compensatory Education Programs, Office of Elementary and Secondary Education, U.S. Department of Education, 400 Maryland Avenue, SW., room 3W202, Washington, DC 20202–6132. Telephone (202) 260–0826.

If you use a telecommunications device for the deaf (TDD), you may call the Federal Information Relay Service (FIRS) at 1–800–877–8339.

Individuals with disabilities may obtain this document in an alternative format (e.g., Braille, large print, audiotape, or computer diskette) on request to the contact person listed under **FOR FURTHER INFORMATION CONTACT**.

The meeting sites are accessible to individuals with disabilities. If you need an auxiliary aid or service to participate in the meetings (e.g., interpreting service, assistive listening device, or materials in alternative format), notify the contact person listed in this notice in advance of the scheduled meeting date. We will make every effort to meet any request we receive.

The regional meetings are open to the public.

**SUPPLEMENTARY INFORMATION:**

**Schedule of Regional Meetings**

We will hold five regional meetings to solicit public comment on the NPRM on the following dates at the following locations:

1. May 6, 2002, 9 a.m. to 5:15 p.m., Holiday Inn Cincinnati Airport, 1717 Airport Exchange Boulevard, Erlanger, Kentucky.

2. May 7, 2002, 9 a.m. to 5:15 p.m., Sheraton Atlanta, 165 Courtland Street, Atlanta, Georgia.

3. May 13, 2002, 9 a.m. to 5:15 p.m., The Westgate Hotel, 1055 Second Avenue, San Diego, California.

4. May 16, 2002, 9 a.m. to 5:15 p.m., Doubletree Hotel Little Rock, 424 West Markham, Little Rock, Arkansas.

5. May 30, 2002, 9 a.m. to 5:15 p.m., LaGuardia Marriott, 102–05 Ditmars Boulevard, East Elmhurst, New York.

**Background**

On January 8, 2002, President George W. Bush signed the NCLB Act, amending the ESEA. The NCLB Act incorporated major education reforms proposed by the President in his No Child Left Behind initiative, particularly in the areas of assessment, accountability, and school improvement. Among other things, the NCLB Act reauthorizes—for a six-year period—the programs under Title I of the ESEA (Title I programs), which are designed to help disadvantaged children reach high academic standards.

Section 1901 of Title I of the ESEA contains procedures that the Department must follow in developing and issuing regulations to govern the Title I programs. Consistent with those requirements, the Secretary obtained the advice and recommendations of representatives of Federal, State, and local administrators; parents; teachers; paraprofessionals; members of local boards of education; and other organizations involved with the implementation and operation of the Title I programs. After obtaining this advice, the Secretary conducted a negotiated rulemaking process on issues relating to Title I standards and assessment requirements. The negotiated rulemaking process produced proposed regulations on these issues that the Secretary is publishing without change in the NPRM. The preamble to the NPRM describes in more thorough detail this regulatory process.

**Regional Meetings**

In addition to the invitation to comment contained in the NPRM, the Assistant Secretary is offering an opportunity for the public to provide