



September 2, 2016

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

RE: Docket ID ED-2016-OESE-0053

Dear Ms. McKinney:

The Consortium for Citizens with Disabilities Technology and Telecommunications Task Force is pleased to provide the following comments to the Department of Education regarding the proposed rule implementing programs under Title I of the Every Student Succeeds Act (ESSA). The Consortium for Citizens with Disabilities is a coalition of more than 100 national disability organizations working together to advocate for national public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society. The Telecommunications and Technology Task Force focuses on ensuring national policy on matters of telecommunications and technology, including assistive technology, helps move society toward our ultimate goal of full inclusion of all people with a disability. For this particular section within Title I of ESSA pertaining to assessments, we have identified one major accessibility concern with the proposed rules.

Concern: No clear requirement for assessments to be accessible.

The shift to digital assessments provided great promise for increased access for students with disabilities. Unfortunately, the reality of digital assessment deployment has not delivered on that promise. Unless digital assessments are developed consistent with nationally recognized accessibility standards, like the Web Content Accessibility Guidelines (WCAG) 2.0, they will not be accessible and will not be compatible or interoperable with assistive technology (AT) devices that students with disabilities routinely use for instruction.

Our members have been dismayed to watch the shift to digital assessments, which may increase (rather than decrease) access barriers and penalize students with disabilities by forcing them to learn new built-in access features (e.g. text-to-speech system, magnification technology, etc.) rather than using their own AT. This creates a situation in which the assessment is measuring a student's ability to learn the new access technology as much if not more than it is measuring their expertise on academic content. In addition, many students with

disabilities require access to features that simply cannot be built into assessments (e.g. voice recognition, complex alternative input devices like eye gaze, etc.). For these students, when the assessment is not accessible and their own AT does not work, they have no independent access to the assessment and are forced to use human supports or in some cases take hard copy “alternative format” assessments while other students are taking online digital assessments.

All of these situations are avoidable if assessments are developed consistent with a nationally accepted accessibility standard. If the assessment is not digital, a nationally recognized accessibility standard could be the National Instructional Materials Accessibility Standard (NIMAS). Requiring assessments be developed consistent with a nationally recognized accessibility standard will enable students with disabilities to use the AT that they regularly use to access instruction and the general education curriculum to demonstrate proficiency on assessments.

CCD Technology and Telecommunications Task Force Recommendation: Change § 200.6(b)(1) as follows:

*(b) Appropriate accommodations. (1) A State's academic assessment system must **be developed consistent with nationally recognized accessibility standards and** provide, for each student with a disability under paragraph (a) of this section, the appropriate accommodations, such as interoperability with, and ability to use, assistive technology devices [~~consistent with nationally recognized accessibility standards~~], that are necessary to measure the academic achievement of the student consistent with paragraph (a)(2) of this section, as determined by--*

Rationale: Currently the way this proposed regulation is written, the reference to “consistent with nationally recognized accessibility standards” applies to assistive technology devices, which is inappropriate and inaccurate. There are no accessibility standards for AT devices. Nationally recognized accessibility standards are applicable to the assessments (e.g. WCAG or NIMAS). Therefore, the proposed rule needs to be revised so that the phrase “consistent with national recognized accessibility standards” applies to the assessment, *not* the assistive technology. This change is required to ensure the rules are consistent with the requirement in the law for accessibility and interoperability with AT.

The CCD Technology and Telecommunications Task Force appreciates the opportunity to provide these comments. Please feel free to contact one of the CCD Technology and Telecommunications Task Force Co-Chairs: Mark Richert, 4justice@concentric.net; Audrey Busch, audrey.busch@ataporg.org; Leif Brierley, leif.brierley@PPSV.com; or Michael Brogioli, mbrogioli@resna.org.

Sincerely,
Association of Assistive Technology Act Programs
RESNA
Perkins School for the Blind
American Foundation for the Blind
National Association of State Directors of Special Education
National Down Syndrome Congress
National Down Syndrome Society
American Council of the Blind
The Advocacy Institute
Autistic Self Advocacy Network

Association of University Centers on Disabilities
TASH
Institute for Educational Leadership
American Speech-Language-Hearing Association
The Arc
United Spinal