

CCD Education Task Force Comments

Proposed Rulemaking: Title I – Improving The Academic Achievement of the Disadvantaged

Department of Education

Office of Elementary and Secondary Education

June 17, 2008

SECTION	CURRENT STATUTE AND REGULATION	PROPOSED REGULATION	COMMENTS/RECOMMENDATIONS
<p>200.19 Other academic indicators <i>(Grad rate requirements)</i></p>	<p>Statute: Section 1111(b)(2)(C) of the ESEA outlines the specific components that must be included in a State’s definition of AYP. Subparagraph (vi) of that section specifically provides that a State’s definition of AYP must include, in accordance with section 1111(b)(2)(D) of the ESEA, other academic indicators, and that the other academic indicator for high schools must be the graduation rate. (Graduation rate is generally defined in this section as the percentage of students who graduate from secondary school with a regular diploma in the standard number of years.) Current Regulations: Section 200.19(a)(1) of the regulations reflects the statutory requirements and requires States to use graduation rate as the other academic indicator for determining AYP for high schools. Under the current regulations, States have some flexibility in calculating graduation rates. States also have flexibility in setting graduation rate goals or determining the improvement in graduation rates needed for a school or district to make AYP. Graduation rate is defined in the regulations as: (1) the percentage of students, measured from the beginning of high school, who graduate from high school with a regular diploma (not including an alternative degree, such as a General Educational Development (GED) credential or another type of certificate that is not fully aligned with the State’s academic standards) in the standard number of years; or (2) another definition, developed by the State and approved by the Secretary in the State Plan, that more accurately measures the rate of student graduation from high school</p>	<p>(a) * * * (1) High schools. The graduation rate for public high schools, defined as follows: (i) Beginning no later than the 2012-2013 school year, a State must calculate the graduation rate 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. (A)(1) Consistent with paragraph (a)(1)(i)(C) of this section, the term “adjusted cohort” means the students who entered grade 9 together and any students who transferred into or entered the cohort in grades 9 through 12 minus any students removed from the cohort. (2) To remove a student from the cohort, a school or LEA must confirm that the student has either transferred or is deceased. To confirm that a student has transferred, the school or LEA must have official documentation that the student has enrolled in a program of study in another school, LEA, or other educational program that culminates in the award of a regular high school diploma. (3) A student who is retained in grade, enrolled in a General Educational Development (GED) program, or leaves school for any other reason may not be counted as a transfer for the purpose of calculating the graduation rate and must remain in the adjusted cohort. (B) The term “regular high school diploma” means the standard high school diploma that is awarded to students in the State and that is fully aligned with the State’s academic content standards or a higher diploma and does not include a GED, certificate of attendance, or any</p>	<p><u>§200.19(a)(1) – Definition of graduation rate and §200.19 (a)(1)(i)(C)(2)</u> Comments: §200.19(a)(1) together with §200.19(a)(1)(C)(2) recognize that some students will take more than 4 years to graduate, but also permit the use of cohort reassignment for students, who may be expected to take more than 4 years to graduate. The use of cohort reassignment is problematic from both the student achievement and calculation perspective. For students, proposed regulation §200.19(a)(1)(C)(2) would allow states to prospectively remove individual or whole categories of students, from the cohort expected to graduate from high school in 4 years. The proposed regulation would allow such reassignments to be used for accountability, but would reduce accountability for actual individual student outcomes. The proposed regulation does not indicate what information such a decision would be based upon, nor the process that would be used, including, when, how, by whom, and how often such decisions would be made. The potential for states to remove individual or entire groups of students from the 4-year graduation rate accountability data is particularly troubling given the populations that have the highest dropout rates are most likely to be reassigned to later graduation dates. Further, students who are no longer expected to graduate in 4 years are less likely to graduate in 5 or 6 years. With</p>

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	<p>with a regular diploma. In defining graduation rate, the State must avoid counting a dropout as a transfer. Section 200.19(d)(1) states that a State may, but is not required to, hold schools and LEAs accountable for achieving higher goals on its other academic indicators, including, with respect to high schools, the graduation rate, over the course of the timeline established by the State under §200.15. Further, §200.20 provides that, in order for a s school or LEA to make AYP, each subgroup of students must meet or exceed the State’s annual measurable objectives and the State’s goals for the other academic indicator. Section 200.19(d)(2)(i) requires a State to disaggregate its other academic indicators by subgroup for purposes of reporting under section 1111(h) of the ESEA and for using the “safe harbor” provision to determine AYP. Section 200.19(d)(2)(ii) states that a State need not disaggregate those indicators for determining AYP except as provided for in section 1111(b)(2)(C)(vii) (which permits States to establish any other academic indicators in addition to those required under section 1111(b)(2)(C)(vi)).</p>	<p>alternative award. (C)(1) The term “standard number of years” means four years unless a high school begins after ninth grade, in which case the standard number of years is the number of grades in the school. (2) A State may propose, for approval by the Secretary, an alternate definition of “standard number of years” that would apply to limited categories of students who, under certain conditions, may take longer to graduate. (ii)(A) A State that does not have in effect a Statewide data system necessary to calculate the graduation rate as defined in paragraph (a)(1)(i) of this section must use the Averaged Freshman Graduation Rate (AFGR) on a transitional basis. The AFGR is the number of high school students who graduate in the standard number of years with a regular high school diploma, as defined in this section, divided by the number of students in the incoming freshman class four years earlier (assuming that the standard number of years is four under paragraph (a)(1)(i)(C) of this section), which is estimated by averaging the enrollment of that freshman class with the enrollment of that class in eighth grade the prior year and in tenth grade the subsequent year (or the average of the enrollment for the ninth and tenth grades if a school or LEA does not have an eighth grade). (B) A State may not use the AFGR to calculate graduation rate after school year 2011-2012. * * * * * (d)(1) A State must-- (i) Set a graduation rate goal that represents the rate the State expects all high schools to meet;</p>	<p>over 35 years of experience, CCD knows that making any kind of pre-determination about students’ futures does not make sense and making schools responsible for this in the context of promoting better outcomes is a recipe for disaster. Therefore, policies that allow either individual students or entire categories of students to be prospectively removed from the cohort expected to graduate in 4 years are inherently damaging to the positive education outcomes so vital to all students.</p> <p>From the calculation perspective, use of cohort reassignment would allow significant variations across states. It also renders the graduation rate data less accurate, transparent and comparable. Given that each state can propose to the Secretary which populations of students will be reassigned to a different year, rates will be difficult to compare between states. Within states, it will be difficult to tell which students have been moved to what years, thus making the rate less meaningful in determining whether or not a school is graduating students on time. This contradicts a longstanding goal of NCLB in ensuring that we have reliable data on student academic outcomes.</p> <p>Recommendation : Replace with a graduation rate calculation and reporting requirements that would:</p> <ul style="list-style-type: none"> • Adopt and utilize a consistent calculation of graduation rate that relies primarily

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		<p>(ii) Define how schools and LEAs demonstrate continuous and substantial improvement from the prior year toward meeting or exceeding the graduation rate goal; and</p> <p>(iii) Submit to the Secretary for approval the graduation rate goal and the definition of continuous and substantial improvement.</p> <p>(2) Beginning in the 2008-2009 school year, in order to make AYP, a high school or LEA must--</p> <p>(i) Meet or exceed the graduation rate goal set by the State under paragraph (d)(1)(i) of this section; or</p> <p>(ii) Demonstrate continuous and substantial improvement from the prior year, as defined by the State under paragraph (d)(1)(ii) of this section.</p> <p>(3) A State may, but is not required to, increase the goals of its academic indicators other than graduation rate.</p> <p>(e)(1) No later than the 2012-2013 school year, a State must calculate the graduation rate in paragraph (a)(1)(i) of this section at the school, LEA, and State levels in the aggregate and disaggregated by each subgroup in §200.13(b)(7)(ii) (economically disadvantaged students; students from major racial and ethnic groups; students with disabilities as defined in section 9101(5) of the Act; and students with limited English proficiency as defined in section 9101(25) of the Act) for reporting under section 1111(h) of the Act (annual report cards) and for determining AYP under §200.20.</p>	<p>upon a 4-year rate and also allows students who graduate in only 3 years, 4 years, 5 years or beyond to be counted.</p> <ul style="list-style-type: none"> • Give schools credit toward the graduation rate for <u>any</u> student earning a regular high school diploma, including students who drop out and then re-enroll in a non-traditional school authorized to grant credit toward or issue a standard high school diploma. • Report total aggregate graduation rate, as well as disaggregated data for students that have participated, aged out, transferred, or are deceased, as well as those who have dropped out. • Require a disaggregated graduation rate for all student groups (as currently required for performance and participation). • Set high goals and growth targets both in the aggregate and disaggregated for all states. • Incorporate disaggregated graduation data into AYP determinations for all student groups. • Align NCLB and IDEA data systems and reporting requirements. <p>Rationale: The proposed regulation recognizes that some students take longer to graduate than others. Instead of attempting to address this by allowing states to prospectively apply adjusted graduation timelines to whole categories of students, we suggest allowing</p>

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		<p>(2) Prior to school year 2012-2013, a State must calculate the graduation rate in paragraph (a)(1)(i) or (a)(1)(ii) of this section--</p> <p>(i) At the LEA and State levels, in the aggregate and disaggregated in accordance with paragraph (e)(1) of this section; and</p> <p>(ii) At the school level--</p> <p>(A) In the aggregate for determining AYP under §200.20(a)(1)(ii); but</p> <p>(B) In the aggregate and disaggregated by each subgroup in §200.13(b)(7)(ii) (economically disadvantaged students; students from major racial and ethnic groups; students with disabilities as defined in section 9101(5) of the Act; and students with limited English proficiency as defined in section 9101(25) of the Act) for purposes of determining AYP under §200.20(b)(2) (“safe harbor”), for reporting under section 1111(h) of the Act (annual report cards), and as required under section 1111(b)(2)(C)(vii) of the Act (additional other academic indicators in a State’s definition of AYP).</p> <p>(3) With respect to its other academic indicators, other than graduation rate, a State--</p> <p>(i) Must disaggregate those indicators by each subgroup described in §200.13(b)(7)(ii) (economically disadvantaged students; students from major racial and ethnic groups; students with disabilities as defined in section 9101(5) of the Act; and students with limited English proficiency as defined in section 9101(25) of the Act) for purposes of determining AYP under §200.20(b)(2) (“safe harbor”), for reporting under section</p>	<p>that schools be held accountable for increasing 4 and extended-year graduation rates. Under such a system, schools and districts would be held accountable for increasing the number of students who graduate in 4 years <u>and</u> for increasing the number of students who graduate in any given year (whether the student is a 4, 5 or more year graduate). Maintaining the primacy of the 4 year graduation rate is critical under such a system and, therefore, for accountability purposes, a high percentage of the extended year rate must be required to be 4 year graduates. This requirement should apply both in the aggregate and disaggregated.</p> <p>The proposed regulations raise early college high schools as an example of students who will take longer than four years to graduate. Certain students with disabilities may also need additional time to graduate with a regular diploma. Use of an extended year rate, will cover these students. However, early college high schools and alternative education settings, such as those designed for students who are under-credited or have dropped out of high school and that award a regular high school diploma, should be provided a waiver for meeting the 4 year requirement for accountability purposes. The regulations should allow for a state to grant on a case-by-case basis waivers to such schools. An extended year rate also supports NCLB’s goal to create greater consistency and</p>

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		<p>1111(h) of the Act (annual report cards), and as required under section 1111(b)(2)(C)(vii) of the Act (additional other academic indicators in a State’s definition of AYP); but (ii) Need not disaggregate those indicators for determining AYP under §200.20(a)(1)(ii) (meeting the State’s annual measurable objectives).</p>	<p>uniformity in the data.</p> <p>We recognize that there are unresolved issues in trying to bring uniformity to both the calculation and reporting of high school graduates. The use of high stakes exit exams, the high number of drop outs, the lack of resources in schools (e.g. lack of qualified teachers, infrequent professional development opportunities, inadequate funding) and other factors further complicate any effort to improve graduation rates for students, including students with disabilities. With this in mind, we urge the Secretary to engage with us and others seeking solutions to closing the achievement gap in a partnership to proactively develop regulations that will provide meaningful guidance that leads to positive outcomes for all high school students.</p> <p><u>§200.19(a)(1)(i) – Transitional use of AFGR</u> Recommendation: Require states that can immediately implement the NGA rate do so and require use of the NGA rate by 2010-2011.</p> <p>Rationale: While we share the concerns that AFGR is a less accurate measure at the school level, AFGR becomes even less meaningful when combined with the cohort reassignment allowed under §200.19 (a)(1)(i)(C)(2). In addition, nothing in the proposed regulation requires states that can use the NGA rate</p>

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			<p>immediately or before 2012-2013 do so. States that cannot implement NGA should have to demonstrate to the Secretary through their plans why they do not have the data system capacity to do so, what changes will need to be made to their systems, what interim rate the state will use to measure graduation rates, and the timeframe in which those changes will be made. In no case should that timeframe extend beyond 2012-2013. Given that most states can or are close to having the data systems necessary to support calculating the NGA rate, the regulations should support states moving to the NGA rate as soon as possible.</p> <p><u>§200.19(d)(1) – Graduation rate goals and continuous and substantial improvement measures</u></p> <p>Recommendation: Clarify that states must meet high standards. Such standards should include high, ambitious end goals and growth targets both in the aggregate and disaggregated. The regulations should also indicate that such standards will apply consistently state to state. The Secretary should require states to use more transparency in proposing their graduation rate goals and growth requirements.</p> <p>Rationale: We agree that the current state-set graduation rate goals and growth targets are weak and meaningless. However, the</p>

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			<p>proposed regulations do not actually require meaningful goals or growth targets beyond the “continuous and substantial” language. Further, the proposed regulations do not state that the goals and growth targets will be consistent state to state which is critical for transparency and comparability of graduation rates.</p> <p><u>Related Issues</u></p> <p><u>Exit Coding</u></p> <p>Recommendation: The regulations must require states to seek approval of their exit coding policy to ensure the use of exit codes does not undermine the accuracy, comparability and transparency of rates.</p> <p>Rationale: The proposed regulations do not directly address how states should reconcile existing exit code policies in the calculation of the required graduation rates. As students progress through and out of a school system, districts and states attach an exit code to each student’s records. That code determines—among other things—how he or she is counted in the graduation rate calculation, including defining a cohort of students. While some states have only a few exit codes, such as “dropout”, “transfer”, and “graduate”, the National Forum on Education Statistics has found that some states have upwards of fifty different ways of</p>

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			<p>categorizing students. In some cases, students who exit the system in ways that should make them dropouts for the intended purpose of the proposed graduation rate regulations (e.g., they have enrolled or plan to enroll in a GED program, have been incarcerated, or have left without reporting a reason) are instead placed in separate categories such as “administrative withdrawal” or “no data available”. For some, this means that students may be miscounted in the graduation rate or sometimes not counted as either dropouts or graduates—for the purposes of the graduation rate calculation, they simply cease to exist. While the use of exit codes is entirely state- and/or LEA-driven, the practice further masks the accuracy of graduation rates and contributes to a lack of comparability between rates.</p> <p><u>N-Size</u> Recommendation: Clarify that policies and regulations governing n-size apply to graduation rate calculations for reporting and accountability</p>