



May 1, 2023

Mr. James F. Lane
U.S. Department of Education
Office of Elementary and Secondary Education
400 Maryland Avenue, SW Washington, DC 20202-1100

Re: Request for Information on Innovative Assessment Demonstration Authority

Dear Mr. Lane,

On behalf of the Consortium for Constituents with Disabilities (CCD) Education Task Force, we are pleased to provide information to the U.S. Department of Education (ED) related to the Innovative Assessment Demonstration Authority (IADA) program. CCD is the largest coalition of national organizations working together to advocate for federal public policy that ensures the self-determination, independence, empowerment, integration and inclusion of children and adults with disabilities in all aspects of society, free from racism, ableism, sexism, and xenophobia, as well as LGBTQ+ based discrimination and religious intolerance. In support of CCD's overall mission, the Education Task Force advocates for federal legislation, regulations, and guidance that protect civil rights, ensure high expectations, and address the educational, as well as the social and emotional needs of infants, children and youth with disabilities and their families. In this work, we focus on the Individuals with Disabilities Education Act (IDEA), the Every Student Succeeds Act (ESSA), Section 504 of the Rehabilitation Act, the Americans with Disabilities Act (ADA), and other applicable laws.

Please see below for the CCD Education Task Force's specific recommendations related to the following topics:

Accessibility

As required by Sec. 1204 of the ESSA: Innovative Assessments, all assessments developed should incorporate and utilize the principles of Universal Design for Learning (UDL). UDL is a scientifically valid framework for guiding educational practice that provides flexibility in the way information is presented, in the way students respond or demonstrate their knowledge and skills, and in the ways students are engaged. Where traditional tests and diagnostics tend to have a one-size-fits-all approach to measuring knowledge and skills, universally designed assessments identify and eliminate unintended and/or irrelevant barriers in the measurement itself. By ensuring all assessments incorporate the principles of UDL, ED will help districts reduce barriers that do not tie to the learning goals being measured, support learner variability,

and increase the likelihood that students can effectively convey their knowledge and skills (See: [UDL Tips for Assessment](#) and [A UDL Perspective on Assessment](#)). To ensure equitable access, any new assessments must be compatible and administered with federally required accommodations and access to ‘interoperable’ assistive technology as required by ESSA¹ and IDEA.² Assessments should be carefully constructed, reviewed, and evaluated to eliminate bias and ensure validity for all students.

Challenging Academic Standards

Because ESSA requires states to develop and administer annual statewide assessments and allows for Innovative Assessments proposals as approved by ED, any new innovative assessment proposal must ensure that all students and student subgroups enrolled in participating schools are held to and assessed against the same challenging state academic standards. We are concerned that previous proposals such as some computer-adaptive models do not include a sufficient number of grade-level items, regardless of student responses to questions, to measure and allow for valid reporting on student achievement against grade-level standards. When a district designs and implements an assessment that is not aligned to the state’s challenging grade level academic achievement standards (or alternate academic achievement standards), such assessments may inadvertently erode efforts to assess all students to grade-level standards and mask student achievement and/or instructional needs.

Accommodations

The federal requirement that students have a right to testing accommodations, including during innovative assessments, must be reinforced. While state applications denote that students with disabilities have access to the same accommodations they would have during the state assessment, [research](#) shows that students with disabilities often do not receive needed accommodations due to a lack of trained personnel and/or administrative convenience. Validating accommodations can be costly and, as a result, it may be a lower priority when test developers and states are piloting approaches. However, until accommodations are developed for new testing approaches, it is not possible to evaluate the impact on critical student subgroups, like students with disabilities, who have historically been excluded from participating in standardized assessments.

Alternate Assessments

While most students with disabilities take the general assessment with or without accommodations, a small number of students with the most significant cognitive disabilities need an alternate assessment. ESEA includes a 1% cap on the total number of students in the state participating in the alternate assessment based on alternate academic standards (AA-AAAS). The alternate assessment must be aligned to the state’s alternate academic achievement standards, which are based on the state’s challenging academic content standards for the enrolled grade. Many states have more than 1% of students taking an AA-AAAS. Nearly half of all states – [23 in the 2021-2022 school year](#)—requested waivers to exceed the 1% limit. In some of those [states](#), a disproportionate number of students of color are taking the alternate

¹ See: Sec. 2006: <https://www.govinfo.gov/content/pkg/FR-2016-12-08/pdf/2016-29128.pdf>

² See: 34 C.F.R. § 300.324(a)(2)(v)

assessment. Only [3%](#) of students who take an AA-AAAS are educated in the general education classroom 80% or more of the time, as compared to 64.8% of all students with disabilities.

In the two most recent state applications for the IADA program, neither [North Carolina](#) nor [Georgia](#) detailed any plans to use the program's funds to innovate and improve the alternate assessment(s) aligned with the challenging state academic standards and alternate academic achievement standards for students with the most significant cognitive disabilities.

Students with disabilities are still one of the lowest performing subgroups of students on state assessments. Therefore, ED should direct applicants to improve and align alternate assessments in addition to the general assessments given to all other students to ensure all students with disabilities have access to high-quality innovative assessments.

95% Administration Requirement

The IDEA requires states to assess *all students with disabilities* and the ESSA requires states to assess 95% of all students, including 95% of each student subgroup. This participation requirement ensures that the results of state assessments are representative of the majority of all students and each student subgroup, including students with disabilities. Some recent proposals would allow states to administer assessments to a representative sample of students. However, given that this would significantly reduce the percentage of students participating in assessments and increase the likelihood of participation for students with disabilities, parents, and advocates have resisted these proposals because the public, including policymakers, would not have access to annual, student-level data. In addition to parents not understanding whether their child is making grade-level gains, schools whose student subgroups are struggling to make those gains would not be identified as needing extra support as is required and which triggers additional funding under current law. More finely, CCD is greatly concerned because parents and caregivers would not have access to a reliable and valid data point that measures students against state-designed grade-level standards annually. Administration that falls short of this participation rate must not be viewed as representative and, as such, should not be used to make accountability decisions.

We appreciate your consideration of our recommendations. We look forward to working with you to craft updates to the IADA program that ensure students with disabilities' needs are met. If you have any questions or concerns, please reach out to one of the CCD Education Task Force Co-chairs listed below.

Sincerely,

The Advocacy Institute

American Speech-Language-Hearing Association (ASHA)

The Arc of the United States

Autism Society of America

Autistic People of Color Fund

Autistic Women & Nonbinary Network

Center for Learner Equity

Children and Adults with Attention-Deficit/Hyperactivity Disorder

Council for Learning Disabilities
Council of Parent Attorneys and Advocates
Division for Learning Disabilities - Council for Exceptional Children
National Center for Learning Disabilities
National Center for Parent Leadership, Advocacy, and Community Empowerment (National PLACE)
National Disability Rights Network (NDRN)
National Down Syndrome Congress
RespectAbility
TASH

CCD Education Taskforce Co-Chairs:

Laura Kaloi
Center for Learner Equity
lkaloi@stridepolicy.com

Lindsay Kubatzky
National Center for Learning Disabilities
lkubatzky@ncl.org

Audrey Levorse
National Association of State Directors of Special Education
audrey.levorse@nasdse.org

Robyn Linscott
The Arc
linscott@thearc.org

Kim Musheno
Autism Society of America
kmusheno@autism-society.org