



Commemorating 40 Years  
Of Disability Advocacy  
1973-2013

July 9, 2013

President Barack Obama  
The White House  
1600 Pennsylvania Avenue NW  
Washington, DC 20500

Re: Elementary and Secondary Education Act 2% Regulation

Dear President Obama:

As members of the Consortium for Citizens with Disabilities Education Task Force (CCD), a coalition of more than 100 organizations speaking on behalf of our nation's children and youth with disabilities, representing our nation's six million school-age students with disabilities eligible for services under the Individuals with Disabilities Education Act (IDEA) and over 500,000 students with disabilities eligible under Section 504 of the Rehabilitation Act we write to share our ongoing concerns regarding the use of an Alternate Assessment based on Modified Academic Achievement Standards (AA-MAS) as currently allowed under the Elementary and Secondary Education Act regulation at §200.1(e). This regulation has been of significant concern to CCD members since it was first proposed in 2005. Today, we write to ask you and your Administration to take immediate steps to end the AA-MAS as soon as possible. We appreciate the Department of Education's (ED) recent actions to move away from the AA-MAS, including:

- Limiting the funding to support assessments aligned to the Common Core State Standards to a general assessment designed to assess virtually all students, including students with disabilities, and an alternate assessment designed for students with the most significant cognitive disabilities.
- Prohibiting states that received Race to the Top funding from using an AA-MAS.
- Requiring states that have received an ESEA flexibility waiver to phase out their use of an AA-MAS by the 2014-2015 school year.
- Indicating its intent to promulgate a regulation that would phase out usage of an AA-MAS in every state.
- Stating publicly intent to end the AA-MAS policy in Secretary Duncan's statement before the American Association of People with Disabilities in March of 2011 -- "the 2 percent rule obscures an accurate portrait of the academic needs of America's students with disabilities."

CCD urges you and the Department of Education to use the upcoming regulatory announcement to permanently end the use of the AA-MAS. Specifically we propose the following actions:

- **Propose regulations that formally end the use of the AA-MAS.** As soon as possible, ED should issue a regulation repealing the April, 2007 regulation, thus prohibiting its use by any state.
- **Provide technical assistance to states regarding transitioning students from the AA-MAS to general assessments.** The Department of Education should provide technical assistance to states to ensure that students with disabilities receive appropriate instruction so that they can successfully take the regular assessment. With the transition in most states to new college and career ready standards, there is an

increased rigor being measured by assessments. This convergence can set up these students for failure and create the possibility of placing more blame on students rather than focusing attention on their need for intervention, improved instruction/instructional support and access to the general curriculum. This last aspect of technical assistance is particularly important given the number of states using the AA-MAS and the number of students taking these tests.

School districts and schools need to understand the needs of transitioning students, including revising their Individualized Educational Plans (IEPs) and providing better access to grade-level curriculum along with the necessary support. The National Center on Educational Outcomes (NCEO), in its report, *States' Flexibility Plans for Phasing Out the Alternate Assessment Based on Modified Academic Achievement Standards*, found that states provided varying levels of detail about how they plan to phase out the AA-MAS and stated that "as states move toward phasing out the AA-MAS for accountability purposes, many will need to develop more detailed plans." In addition, the NCEO report found that

"...based on the results of this analysis, it appears that a few states may have been unclear as to which assessment some students who currently take the AA-MAS would be shifting to. Almost all students who participated in the AA-MAS will transition to the general assessment, with or without accommodations. Very few students who take the AA-MAS have significant cognitive disabilities, so it would be very rare that a student would transition to an Alternate Assessment on Alternate Achievement Standards (AA-AAS). States will need to use care when they revise their participation guidelines to ensure that students currently in the AA-MAS are shifted to the appropriate test (Lazarus & Rieke, in press)."

As part of technical assistance to states, ED should provide guidance for IEP teams to help them determine the appropriate assessment type for students with disabilities. The expectation should be that students presently taking the AA-MAS will participate in the general assessment, with appropriate accommodations as needed. Please let us know how we can support or assist in your Administration taking these important next steps.

Thank you for considering our recommendations. We look forward to your response.

Respectfully,

Advocacy Institute  
Association of University Centers on Disabilities  
Council for Children with Behavioral Disorders  
Council for Exceptional Children  
Council for Learning Disabilities  
Council of Parent Attorneys and Advocates, Inc.  
Disability Rights Education and Defense Fund  
Easter Seals  
Higher Education Consortium for Special Education  
Learning Disabilities Association of America  
National Alliance on Mental Illness  
National Association of Councils on Developmental Disabilities  
National Association of State Directors of Special Education  
National Center for Learning Disabilities  
National Disability Rights Network  
National Down Syndrome Society  
School Social Work Association of America  
TASH  
Teacher Education Division, Council for Exceptional Children  
The Arc of the United States

The Consortium for Citizens with Disabilities is a coalition national consumer, advocacy, provider and professional organizations headquartered in Washington, D.C. Since 1973, the CCD has advocated on behalf of people of all ages with physical and mental disabilities and their families. CCD has worked to achieve federal legislation and regulations that assure that the 54 million children and adults with disabilities are fully integrated into the mainstream of society. For additional information, please contact:

Katy Beh Neas, Easter Seals	202.347.3066	<a href="mailto:kneas@easterseals.com">kneas@easterseals.com</a>
Laura Kaloi, National Center for Learning Disabilities	202.349.2310	<a href="mailto:lkaloi@wpllc.net">lkaloi@wpllc.net</a>
Cindy Smith, National Disability Rights Network	202-408-9514 ext. 101	<a href="mailto:cindy.smith@ndrn.org">cindy.smith@ndrn.org</a>

CC:

Chairman John Kline  
2439 Rayburn House Office Building  
Washington, DC 20515

Chairman Tom Harkin  
731 Hart Senate Office Building  
Washington, DC 20510

Ranking Member George Miller  
2205 Rayburn HOB  
Washington, DC 20515

Ranking Member Lamar Alexander  
455 Dirksen Senate Office Building  
Washington, DC 20510

The Honorable Arne Duncan  
Secretary, U.S. Department of Education  
400 Maryland Ave, S.W.  
Washington, DC 20202