

**SUPPORTING STATEMENT FOR PAPERWORK REDUCTION ACT SUBMISSION
TWO PERCENT FINAL REGULATION**

Q1. Explain the circumstances that make the collection of information necessary. Identify any legal or administrative requirements that necessitate the collection. Attached is a copy of the appropriate section of each statute and regulation mandating or authorizing the collection of information.

The Secretary has proposed to amend the regulations governing programs administered under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), as amended by the No Child Left behind Act of 2001 (NCLB), and the regulations governing programs under Part B of the Individuals with Disabilities Education Act (IDEA). The regulations are needed to implement statutory provisions regarding State educational agency (SEA), local educational agency (LEA), and school accountability for the academic achievement of students with disabilities.

The information collections associated with these regulations relate to four changes in activities already required under Title I, Part A of the ESEA and Part B of the IDEA for SEAs that voluntarily choose to take advantage of the additional flexibility offered by the amended regulations. This flexibility is for SEAs that choose to develop modified academic achievement standards and assessments that measure achievement based on those standards for a small group of students with disabilities.

First, §200.1(f) of the final Title I regulations require SEAs that choose to provide alternate assessments based on modified academic achievement standards to develop and monitor the implementation of clear guidelines for IEP Teams to apply in determining which students will be assessed based on modified academic achievement standards. The purpose of this requirement is to ensure that SEAs have guidelines in place that will help IEP Teams appropriately determine which students with disabilities should be assessed based on the modified academic achievement standards.

Second, §200.6(a)(4) of the final Title I regulations requires SEAs, under section 1111(h)(4) of the ESEA, to report in their annual State performance reports, the total number and percentage of students tested in math and reading with alternate assessments based on modified academic achievement standards. The U.S. Department of Education (ED) already collects from SEAs the number of students with disabilities and the types of assessments these students take so that it can monitor SEAs to make sure that students with disabilities are assessed in accordance with the ESEA and regulations. The new reporting category simply adds a place for SEAs to report those students tested and assessed in the new category permitted by the modified regulations.

Third, §200.20 of the final Title I regulation provides that SEAs and LEAs may include the scores of former students with disabilities as part of the students with disabilities subgroup on State and LEA report cards required under section 1111(h)(1) and (2) of the ESEA. ED included this provision as a tool for SEAs and LEAs to track the use of the modified academic achievement standards and to serve as a safeguard for children --

public disclosure on use of this flexibility will help ensure that it is not misused or abused intentionally or unintentionally.

And fourth, §300.160(f)(3) of the final IDEA regulations, consistent with section 612(a)(16) of the IDEA, requires SEAs to publicly report the total number and percentage of students tested in math and reading with alternate assessments based on modified academic achievement standards. The U.S. Department of Education, through the Report of the Participation and Performance of Students with Disabilities on State Assessments By Content Area, Grade, and Type of Assessment data collection (#1820-0659), which was approved in its current form by OMB in August 2006, already collects information related to regular and alternate assessments. However, the form to be used for reporting SY 2007-08 assessment data for students with disabilities has been revised to include one additional category for students with disabilities who are assessed with an alternate assessment based on modified academic achievement standards.

The purposes of the data collected on these forms are to: (1) assess the progress, impact, and effectiveness of State and local efforts to implement the legislation and (2) provide Congress and Federal, State, and local educational agencies with relevant information. These State data will be used for monitoring activities, planning purposes, congressional reporting requirements, and dissemination to individuals and groups. The data collection form provides instructions and information for States when submitting their counts of the number of students with disabilities participating in state assessments and their performance on those assessments.

Once the process for this information collection package is completed, the estimated burden hours will be added to the appropriate existing collections. Specifically, the burden for §200.1(f) will be added to existing collection 1810-0576; the burden for §200.6(a)(4) will be added to existing collection 1875-0240; the burden for §300.160(f)(3) will be added to existing collection 1820-0659; and the burden for §200.20 will be added to existing collection 1810-0581.

Q2. Indicate how, by whom, and for what purpose the information is to be used. Except for a new collection, indicate the actual use the agency has made of the information received from the current collection.

IEP Teams in each State will use the new guidelines to identify appropriately which students will be assessed based on modified academic achievement standards. ED will use the new data from the State performance reports to monitor SEAs and respond to, as appropriate, inquiries from Congress, the public, and the field. As SEA and LEA report cards are widely disseminated to the public, communities, and parents, the additional information on students assessed based on modified academic achievement standards will make the implementation of the amended regulations more transparent. In particular, parents, especially parents of children with disabilities, will have important information about the assessment process that directly affects their children's education. Likewise, the public will be more informed about the education system in their State, especially the education of students with disabilities.

Q3. Describe whether, and to what extent, the collection of information involves the use of automated, electronic, mechanical, or other technological collection techniques or forms of information technology, e.g. permitting electronic submission of responses, and the basis for the decision of adopting this means of collection. Also describe any consideration of using information technology to reduce burden.

A3. The amended regulations do not require nor preclude SEAs from using information technology to reduce burden.

Q4. Describe efforts to identify duplication. Show specifically why any similar information already available cannot be used or modified for use of the purposes described in Item 2 above.

A4. There is no duplication in the amended regulations.

Q5. If the collection of information impacts small businesses or other small entities (Item 5 of OMB Form 83-I), describe any methods used to minimize burden.

A5. Small businesses have not been impacted by this data collection nor will it impact them. The small entities that would have been affected by the modified regulations were small LEAs receiving Federal funds under Title I. The existing regulations, however, have not had a significant impact on the small entities. The same will be true of the amended regulations because the changes represent just a modification of previous requirements.

Q6. Describe the consequences to Federal program or policy activities if the collection is not conducted or is conducted less frequently, as well as any technical or legal obstacles to reducing burden.

Not conducting would have negative consequences for students with disabilities, the public and parents, and ED, SEAs, and LEAs. Specifically, IEP Teams would not have the necessary guidance to help them determine appropriately which students should be assessed based on modified academic achievement standards. ED would be unable to track effectively SEAs' implementation of the provision, which could negatively impact the services provided to students with disabilities, as well as ED's ability to fulfill its responsibility to ensure that the statute and regulations are followed. Also, without this data collection, there would be no publicly available information on how SEAs, LEAs, and schools use the new flexibility related to students with disabilities. ED included this provision as a tool for itself, SEAs and LEAs, and the public to monitor the use of this flexibility and as a safeguard for children so that it is not misused or abused.

Q7. Explain any special circumstance that would cause an information collection to be conducted in a manner:

- *requiring respondents to report information to the agency more often than quarterly;*
- *requiring respondents to prepare a written response to a collection of information in fewer than 30 days after receipt of it;*
- *requiring respondents to submit more than an original and two copies of any document;*

- *requiring respondents to retain records, other than health, medical, government contract, grant-in-aid, or tax records for more than three years;*
- *in connection with a statistical survey, that is not designed to produce valid and reliable results that can be generalized to the universe of study;*
- *requiring the use of a statistical data classification that has not been reviewed and approved by OMB;*
- *that includes a pledge of confidentiality that is not supported by authority established in statute or regulation, that is not supported by disclosure and data security policies that are consistent with the pledge, or which unnecessarily impedes sharing of data with other agencies for compatible confidential use; or*
- *requiring respondents to submit proprietary trade secrets, or other confidential information unless the agency can demonstrate that it has instituted procedures to protect the information's confidentiality to the extent permitted by law.*

A7. The new regulations do not require the information collection to be conducted in a manner inconsistent with the requirements of 5 CFR 1320.5.

Q8. *If applicable, provide a copy and identify the date and page number of publication in the FEDERAL REGISTER of the agency's notice, required by 5 CFR 1320.8(d), soliciting comments on the information collection prior to submission to OMB. Summarize public comments received in response to that notice and describe actions taken by the agency in response to those comments. Specifically address comments received on cost and hour burden.*

Describe efforts to consult with persons outside the agency to obtain their views on the availability of data, frequency of collection, the clarity of instruction and record keeping, disclosure, or reporting format (if any), and on the data elements to be recorded, disclosed, or reported.

Consultation with representatives of those from whom information is to be obtained or those who must compile records should occur at least once every 3 years - even if the collection of information activity is the same as in prior periods. There may be circumstances that preclude consultation in a specific situation. These circumstances should be explained.

A8. Public comments will be initially solicited on **[Month] [Date]**, 2007

Q9. *Explain any decision to provide any payment or gift to respondents, other than remuneration of contractors or grantees.*

A9. The final regulations do not require gifts or payments to be made to respondents.

Q10. *Describe any assurance of confidentiality provided to respondents and the basis for the assurance in statute, regulations, or agency policy.*

A10. The final regulations require no assurance of confidentiality.

Q11. Provide additional justification for any questions of a sensitive nature, such as sexual behavior and attitudes, religious beliefs, and other matters that are commonly considered private. This justification should include the reasons why the agency considers the questions necessary, the specific uses to be made of the information, the explanation to be given to persons from whom the information is requested, and any steps to be taken to obtain their consent.

A11. The final regulations do not require questions of a sensitive nature in this collection of information.

Q12. Provide estimates of the hour burden of the collection of information. The statement should:

- Indicate the number of respondents, frequency of response, annual hour burden, and an explanation of how the burden was estimated. Unless directed to do so, agencies should not conduct special surveys to obtain information on which to base hour burden estimates. Consultation with a sample (fewer than 10) of potential respondents is desirable. If the hour burden on respondents is expected to vary widely because of differences in activity, size, or complexity, show the range of estimated hour burden, and explain the reasons for the variance. Generally, estimates should not include burden hours for customary and usual business practices.*
- If this request for approval covers more than one form, provide separate hour burden estimates for each form and aggregate the hour burdens in Item 13 of OMB Form 83-I.*
- Provide estimates of annualized cost to respondents of the hour burdens for collections of information, identifying and using appropriate wage rate categories. The cost of contracting out or paying outside parties for information collection activities should not be included here. Instead, this cost should be included in Item 14.*

A12. For this information collection, the maximum number of respondents is 60 respondents (52 for the ESEA items and 60 for the IDEA item; please see table footnote below for details.) The requirements are to be done annually, beginning with school year 2007-08, and the estimated hour burden for the collection of information is 4,019 hours. The estimates were developed based on ED's previous experience with comparable requirements, as the activities are very similar to those that the respondents are already required to complete.

SEAs already provide guidelines to IEP Teams; the amended regulations simply require SEAs to adjust them to account for the new option of assessing students with disabilities based on modified academic achievement standards. It is estimated to take an additional 75 hours per SEA to issue the new guidelines.

Likewise, SEAs already report the number of students with disabilities participating in assessments and the type of assessments these students take. The total number of students with disabilities being reported does not change because of these collections. In addition, the costs and burden associated with the coding of data will not increase as SEAs are already coding each student who is assessed according to the type of assessment taken. It is, however, anticipated

that administrative costs involved in collecting and processing these additional data will increase. ED estimates that it will take an additional hour per SEA to provide the new data, for a total increase of 52 hours.

ED previously included an estimate for the entire SEA report card in 1810-0581, “State Educational Agency Local Educational Agency and School Data Collection and Reporting under ESEA, Title I, Part A,” which includes an estimated 19,240 total hours for SEAs to complete their report cards. Since SEAs already issue their report cards, the new reporting category will add just one hour per SEA, for 52 hours total.

As the number of data elements in the Report of the Participation and Performance of Students with Disabilities on State Assessments By Content Area, Grade, and Type of Assessment data collection was expanded to accommodate the reporting of alternate assessments based on modified academic achievement standards, these changes are expected to increase the States’ burden by 15 minutes (increasing the average State burden from 60 to 60.25 hours). With a total of 60 SEA respondents in the IDEA data collection, this revision will result in an additional burden to States of 15 hours max (60 SEAs * 0.25 hours/SEA), when all States report this additional category.

This data form will not generate any additional cost or burden for respondents beyond that required for the time filling out the additional items on the form. States already report the number of students with disabilities participating in assessments and the type of assessments these students take. The total number of students with disabilities reported does not change as a result of this collection.

The following table summarizes the burden and cost estimates.

Burden in Hours and Dollars

Activity	Frequency	# of respondents	Average # of Hours per Respondent	Total Hours	Total Cost (Total Hours x \$26.00)
§200.1(f)—IEP guidelines	Annually	52*	75	3,900	\$101,400
§200.6(a)(4)—SEA performance report	Annually	52*	1	52	\$1,352
§200.20—SEA report card	Annually	52*	1	52	\$1,352
IDEA – Report of Student Assessment	Annually	60*	.25	15	\$390
Total	-	N/A	N/A	4,019	\$104,494

*52 respondents refers to: 50 States, District of Columbia, and Puerto Rico; 60 respondents refers to: 50 States, District of Columbia, Puerto Rico, Virgin Islands, American Samoa, Guam, Marshall Islands, Micronesia, Northern Marianas, Palau, and the Bureau of Indian Affairs.

Q13. Provide an estimate of the total annual cost burden to respondents or record keepers resulting from the collection of information. (Do not include the cost of any hour burden shown in Items 12 and 14.)

- The cost estimate should be split into two components: (a) a total capital and start-up cost component (annualized over its expected useful life); and (b) a total operation and maintenance and purchase of services component. The estimates should take into account costs associated with generating, maintaining, and disclosing or providing the information. Include descriptions of methods used to estimate major cost factors including system and technology acquisition, expected useful life of capital equipment, the discount rate(s), and the time period over which costs will be incurred. Capital and start-up costs include, among other items, preparations for collecting information such as purchasing computers and software; monitoring, sampling, drilling and testing equipment; and record storage facilities.
- If cost estimates are expected to vary widely, agencies should present ranges of cost burdens and explain the reasons for the variance. The cost of contracting out information collection services should be a part of this cost burden estimate. In developing cost burden estimates, agencies may consult with a sample of respondents (fewer than 10), utilize the 60-day pre-OMB submission public comment process and use existing economic or regulatory impact analysis associated with the rulemaking containing the information collection, as appropriate.
- Generally, estimates should not include purchases of equipment or services, or portions thereof, made: (1) prior to October 1, 1995, (2) to achieve regulatory compliance with requirements not associated with the information collection, (3) for reasons other than to provide information or keep records for the government, or (4) as part of customary and usual business or private practices.

A13. Not applicable.

Q14. Provide estimates of annualized cost to the Federal government. Also, provide a description of the method used to estimate cost, which should include quantification of hours, operational expenses (such as equipment, overhead, printing, and support staff), and any other expense that would not have been incurred without this collection of information. Agencies also may aggregate cost estimates from Items 12, 13, and 14 in a single table.

A14. Estimated annualized Federal cost: The only cost to the Federal government, beyond the efforts normally associated with Department staff conducting program monitoring, would be to review the reporting data submitted by SEAs using the flexibility offered by the new regulations.

One person, GS-13, one hour per SEA, X 52 SEAs = 52 hours X 32.08 per hour=\$1,668.

Q15. Explain the reasons for any program changes or adjustments reported in Items 13 or 14 of the OMB Form 83-I.

A15. This is a new collection.

Q16. For collections of information whose results will be published, outline plans for tabulation and publication. Address any complex analytical techniques that will be used. Provide the time schedule for the entire project, including beginning and ending dates of the collection of information, completion of report, publication dates, and other actions.

A16. The collection of information does not require publication of the information or use of complex analytical techniques. The needs assessment and service delivery plan need to be implemented at least once during the current period of authorization for the ESEA, as amended. The program evaluation needs to be implemented biennially during the current period of authorization for the ESEA, as amended.

Q17. If seeking approval to not display the expiration date for OMB approval of the information collection, explain the reasons that display would be inappropriate.

A17. Since the paperwork requirements are at the SEA level, the proposed display of the expiration date of OMB approval for the data collection would be inappropriate because these entities, rather than the Federal Government or a Federal contractor, are doing the collections.

Q18. Explain each exception to the certification statement identified in Item 20, "Certification for Paperwork Reduction Act Submissions," of OMB Form 83-I.

A18. There are no proposed exceptions to the certifications.

B. Collections of Information Employing Statistical Methods

The final regulations do not require that statistical methodology be employed.