

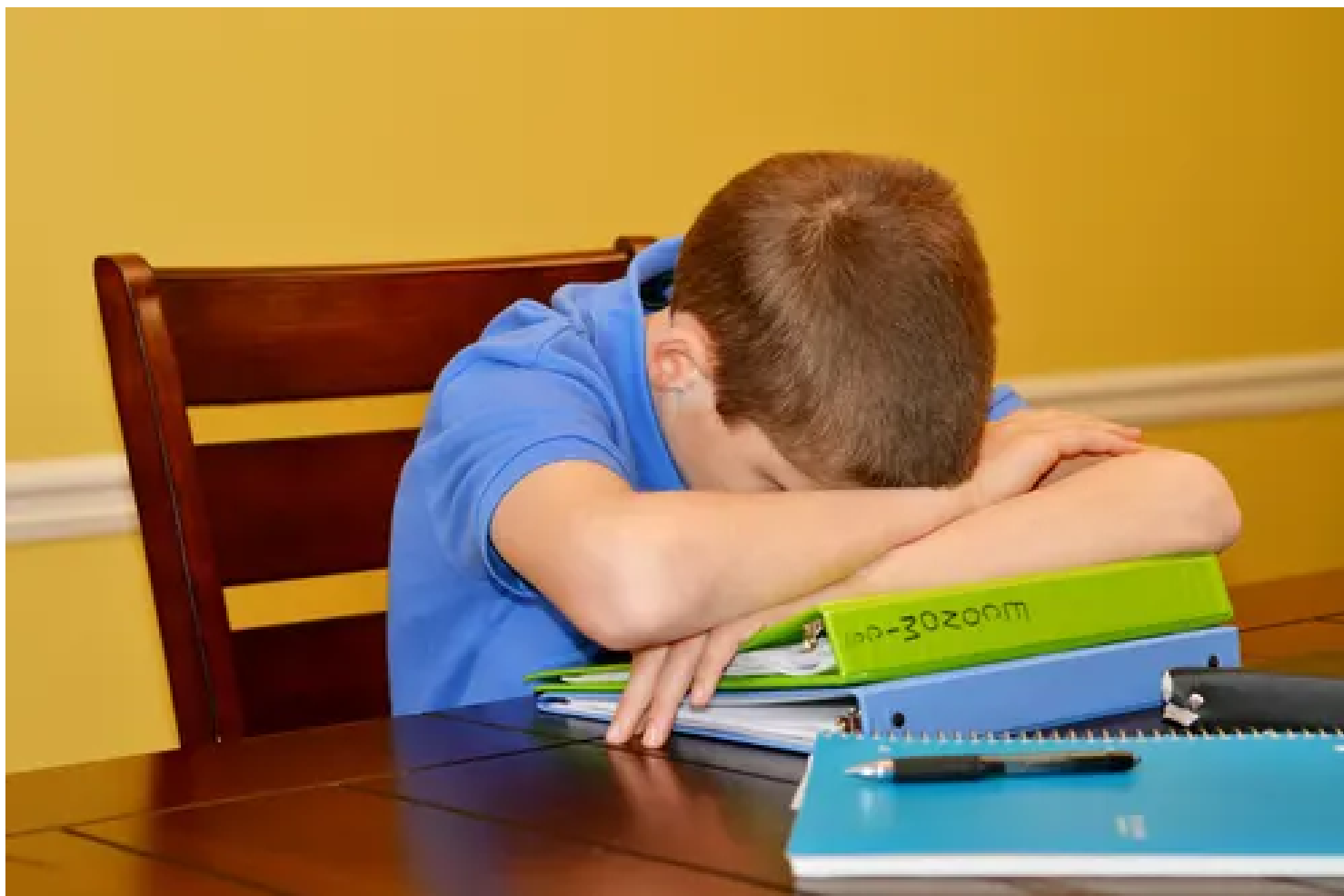
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EDUCATION

After Pushback, a Retreat from Standardized Testing in Schools

Portland Public Schools changes its mind on testing requirements during virtual school—at least for now.

By [Julia Silverman](#) • 9/28/2020 at 2:24pm



Who among us doesn't feel this way after a day of virtual learning?

IMAGE: [COURTESY BLACK ROCK DIGITAL/SHUTTERSTOCK](#)

Last week, parents in Portland Public Schools received an update from district officials about the [Measures of Academic Progress](#) (MAP) test which, on its face, is intended to give teachers a sense of student aptitude levels at the start of the school year.

But by Monday, they'd reversed that decision, just as the planned assessments were set to begin.

The back-and-forth began last week, when families were informed via email that testing would continue as planned. In a **fun bonus for all the working parents out there**, the district wrote that “many students, especially younger children, will need assistance from an adult in the home,” to complete the tests.

(Note: administering the tests was expected to take at least two hours, and teachers would likely have had to break students into groups to administer the tests, thereby cutting into already reduced instructional time for all.)

Then, on Monday morning, **the district announced via email that all MAP tests were suspended for the fall, effective immediately.**

The testing decision comes after pushback from parents and teachers. At three elementary schools—Chief Joseph, Grout, and Abernethy—teachers had circulated a letter, shared with *Portland Monthly*, urging the district to suspend the testing, in large part for equity reasons.

“We know there is extreme variability in student home environments, access to technology, responsibilities and challenges and supports that students need,” teachers noted in a letter to the district. “It would be an affront to our District’s equity goals to make any decisions about instructions or programs based on data that is inevitably inaccurate and racially biased.”

It’s not the first time the school system has announced a decision and then reversed on it this year. Just last week, after [parent complaints about face-to-face instruction for middle school students being limited to Monday and Tuesday mornings at some schools](#), the district sent an email standing by its schedule for sixth through eighth graders, noting that “PPS schedule exceeds the requirements of the recommended grades 6-8 schedule from the Oregon Department of Education.”

After more pushback, five days later Portland Public Schools sent another email, apologizing for “the confusion many students and families are feeling with regard to the middle school schedules,” and clarifying that sixth through eighth-graders are expected to work “directly with teachers online from 9:30 am to 12:15 pm, Monday through Thursday,” though that may be via small-group instruction as opposed to whole-class meet-ups.

And PPS is far from the only public school district back stepping right now. In Lane County, a handful of schools were planning to reopen for in-person learning for kindergarten through third graders last week, but [had to call off their plans at the last minute because of rising caseloads](#) (likely driven by the return of students to the University of Oregon).

As for the MAP test, PPS leaders left the test's future open, saying only that they would "re-evaluate the opportunity for assessments later in the school year."

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The Texas Education Agency (TEA) adopts on an emergency basis new §74.1101, concerning dyslexia screening. The new section implements the requirements of Governor Abbott's waiver of the Texas Education Code (TEC), §38.003(a), to screen each student in Kindergarten for dyslexia and related disorders at the end of the school year.

The new section is adopted on an emergency basis to take effect immediately. The TEA finds that an imminent peril to health, safety, and welfare exists due to the COVID-19 pandemic. As a consequence of the pandemic, the governor has declared a state of disaster for Texas and has ordered that schools be closed to in-classroom attendance for the remainder of the 2019-2020 school year. In recognition of this peril, the governor waived state law in TEC, §38.003(a), which requires the screening of students for dyslexia at the end of the school year. These screenings necessitate close proximity between students and teachers and would lead to unnecessary risk at a time when the state has taken extraordinary actions to reduce exposure to the virus and minimize its spread. The pandemic and its associated health risks require the adoption of the new section on fewer than 30 days' notice. The governor's waiver also recognizes the importance of interventions for students with dyslexia and requires TEA to adopt measures to ensure that school operations in the subsequent school year are implemented to ensure that the purposes of screening and treatment for dyslexia are accomplished, despite the delay in screening that may occur in the 2019-2020 school year. The emergency rule informs school districts and open-enrollment charter schools of their requirements should they utilize the governor's waiver of the end-of-year dyslexia screener required by TEC, §38.003(a), for Kindergarten students in the 2019-2020 school year. The emergency rule requires school districts and open-enrollment charter schools to provide a reading diagnostic at the beginning of the 2020-2021 school year, or at a time designated by the commissioner should circumstances make this infeasible, followed up with the screening requirement by the end of January 2021. These measures should allow the identification and interventions necessary to fulfill the purposes of the screening requirements and assist students at risk of dyslexia, despite the delay in screening from the 2019-2020 school year.

STATUTORY AUTHORITY. The new section is adopted under Texas Education Code (TEC), §38.003(c-1), which authorizes Texas Education Agency (TEA) to develop procedures to ensure the purposes of dyslexia screening are accomplished. In addition, Governor Abbott's May 21, 2020 waiver of TEC, §38.003(a), is conditional upon a school district or an open-enrollment charter school complying with

procedures adopted by TEA to ensure the purposes of the screening are fulfilled despite the delay in screening.

CROSS REFERENCE TO STATUTE. The new section implements Texas Education Code, §38.003(c-1), and Governor Abbott's May 21, 2020 waiver of TEC, §38.003(a).

<rule>

§74.1101. Dyslexia Screening Requirements for 2019-2020 and 2020-2021 School Years.

- (a) Conditional waiver for 2019-2020 school year. The requirement established under Texas Education Code (TEC), §38.003(a), to screen each student in Kindergarten for dyslexia and related disorders by the end of the school year was waived by the governor for the 2019-2020 school year due to school closures resulting from the COVID-19 pandemic, subject to guidance and rules adopted by Texas Education Agency.
- (b) Applicability. The waiver described under subsection (a) of this section applies to school districts and open-enrollment charter schools that implement the requirements of subsection (c) of this section.
- (c) Requirements for 2020-2021 school year. School districts and open-enrollment charter schools must administer the reading diagnostic instrument required by TEC, §28.006, within the first 20 school days of the 2020-2021 school year.
 - (1) A student should be provided reading intervention as needed based on the reading diagnostic instrument results.
 - (2) A student should be referred for an evaluation if dyslexia or a related disorder is suspected.
 - (3) A student should be referred for a full and individual initial evaluation as required by state and federal law if a need for special education services is suspected in addition to suspicion of the presence of dyslexia.
 - (4) Students in Grade 1 must be screened for dyslexia and related disorders by the end of January 2021 in accordance with TEC, §38.003(a), and the "Dyslexia Handbook: Procedures Concerning Dyslexia and Related Disorders" adopted under §74.28 of this title (relating to Students with Dyslexia and Related Disorders).
- (d) Alteration of timelines. The commissioner of education may alter the timelines under subsection (c) of this section for the state or an individual school district or open-enrollment charter school if circumstances resulting from the COVID-19 pandemic necessitate alteration.

The Texas Education Agency (TEA) proposes an amendment to §97.1071, concerning special program performance. The proposed amendment would clarify existing statutory provisions; reflect changes to the Texas Education Code (TEC) related to compliance monitoring, reading diagnosis, and dyslexia and related disorders by Senate Bill (SB) 2075, 86th Texas Legislature, 2019; and update terminology and cross references.

BACKGROUND INFORMATION AND JUSTIFICATION: Section 97.1071 defines the procedures for special program monitoring and requirements a school district must engage in with TEA based on a determined level of performance derived from certain data sources.

The proposed amendment would add new subsection (a) to clarify and update language related to the commissioner's authority to conduct random, targeted, or cyclical reviews authorized under TEC, §39.056, either remotely or on-site to ensure compliance with and supports for improvement with applicable state and federal requirements for certain special populations of students. In addition, it would clarify authority for application of intensive or special investigations authorized under TEC, §39.057, for certain special populations of students.

New subsection (b) would be added to apply the general supervision and monitoring activities under subsection (a) to compliance with statutory requirements for dyslexia and related disorders. This addition would clarify TEA's authority and align the rule with TEC, §28.006, as amended by SB 2075, 86th Texas Legislature, 2019; TEC, §38.003; and the State Board of Education's rule related to dyslexia and related disorders in 19 TAC §74.28. SB 2075, 86th Texas Legislature, 2019, amended TEC, §28.006, which relates to diagnosis of student reading development and comprehension. New TEC, §28.006(g-2), was added to require school districts to notify certain parents or guardians of a program providing students with reading disabilities the ability to borrow audiobooks free of charge. In addition, new TEC, §28.006(l) was added to require TEA to adopt rules to develop procedures designed to allow TEA to effectively audit, monitor, and periodically conduct site visits to ensure compliance with the requirements of TEC, §28.006; identify problems in complying; and develop reasonable and appropriate remedial strategies to address noncompliance.

Amended subsections (c)-(i) would remove references to a specific data system, the Intervention Stage and Activity Manager (ISAM), and update the reference to 19 TAC §97.1005, which has been renamed from Performance Based Monitoring Analysis System to Results Driven Accountability (RDA). The rule would be amended throughout to update terminology contained within the RDA and resulting monitoring activities. These changes would clarify the agency's requirements and activities when monitoring special populations of students under the authority of TEC, §§39.056-39.058.

In addition, the section name would be updated to "Special Program Performance; Monitoring, Review, and Supports" to clarify the contents of the rule and align with TEA's current systems and naming conventions.

FISCAL IMPACT: Jennifer Alexander, associate commissioner for review and supports, has determined that for the first five-year period the proposal is in effect there are no additional costs to state or local government, including school districts and open-enrollment charter schools, required to comply with the proposal.

LOCAL EMPLOYMENT IMPACT: The proposal has no effect on local economy; therefore, no local employment impact statement is required under Texas Government Code, §2001.022.

SMALL BUSINESS, MICROBUSINESS, AND RURAL COMMUNITY IMPACT: The proposal has no direct adverse economic impact for small businesses, microbusinesses, or rural communities; therefore, no regulatory flexibility analysis, specified in Texas Government Code, §2006.002, is required.

COST INCREASE TO REGULATED PERSONS: The proposal does not impose a cost on regulated persons, another state agency, a special district, or a local government and, therefore, is not subject to Texas Government Code, §2001.0045.

TAKINGS IMPACT ASSESSMENT: The proposal does not impose a burden on private real property and, therefore, does not constitute a taking under Texas Government Code, §2007.043.

GOVERNMENT GROWTH IMPACT: TEA staff prepared a Government Growth Impact Statement assessment for this proposed rulemaking. During the first five years the proposed rulemaking would be in effect, it would expand an existing regulation. The proposed amendment would update and clarify the agency's general supervision and monitoring activities for school district compliance with statutory requirements related to reading diagnoses as well as dyslexia and related disorders.

The proposed rulemaking would not create or eliminate a government program; would not require the creation of new employee positions or elimination of existing employee positions; would not require an increase or decrease in future legislative appropriations to the agency; would not require an increase or decrease in fees paid to the agency; would not create a new regulation; would not limit or repeal an existing regulation; would not increase or decrease the number of individuals subject to its applicability; and would not positively or adversely affect the state's economy.

PUBLIC BENEFIT AND COST TO PERSONS: Ms. Alexander has determined that for each year of the first five years the proposal is in effect, the public benefit anticipated as a result of enforcing the proposal would be ensuring that rule language is based on current law and providing school districts with clarifications on special populations monitoring activities and requirements. There is no anticipated economic cost to persons who are required to comply with the proposal.

DATA AND REPORTING IMPACT: The proposal would have no new data and reporting impact.

PRINCIPAL AND CLASSROOM TEACHER PAPERWORK REQUIREMENTS: TEA has determined that the proposal would not require a written report or other paperwork to be completed by a principal or classroom teacher.

PUBLIC COMMENTS: The public comment period on the proposal begins October 2, 2020, and ends November 2, 2020. Public hearings on the proposal are scheduled for 1:00 p.m. on October 14 and 15, 2020. The public may participate in the October 14 hearing virtually by registering in advance for the meeting at <https://zoom.us/join/joinMeeting?meetingid=960182888&meetingpassword=1234567890>. The public may participate in the October 15 hearing virtually by registering in advance for the meeting at <https://zoom.us/join/joinMeeting?meetingid=960182888&meetingpassword=1234567890>. Registrants will receive a confirmation email containing information about joining the meeting(s). Both hearings will be recorded and made available publicly. Parties interested in testifying must pre-register online prior to 1:00 pm on the date of the applicable hearing and are encouraged to also send written testimony to spedrule@tea.texas.gov. The hearing(s) will conclude once all who have registered have been given the opportunity to comment. Questions about the hearing should be directed to the Office of Special Populations at (512) 463-9414. A form for submitting public comments is available on the TEA website at [https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_\(TAC\)/Proposed_Commissioner_of_Education_Rules/](https://tea.texas.gov/About_TEA/Laws_and_Rules/Commissioner_Rules_(TAC)/Proposed_Commissioner_of_Education_Rules/).

STATUTORY AUTHORITY. The amendment is proposed under Texas Education Code (TEC), §7.028, which establishes compliance monitoring limitations with exceptions noted in particular for requirements in TEC, §28.006 and §38.003; TEC, §28.006, as amended by Senate Bill 2075, 86th Texas Legislature, 2019, which requires the commissioner to establish procedures by rule for monitoring compliance and provision of support to districts for complying with statutory requirements in the section; TEC, §38.003, which requires the commissioner to establish procedures by rule for monitoring compliance and provision of support to districts for complying with statutory requirements in the section; and TEC, §§39.056-39.058, which define and establish conduct of monitoring reviews and special accreditation investigations and require the commissioner to establish procedures by rule for complying with statutory requirements in the sections.

CROSS REFERENCE TO STATUTE. The amendment implements Texas Education Code, §§7.028; 28.006, as amended by Senate Bill 2075, 86th Texas Legislature, 2019; 38.003, and 39.056-39.058.

<rule>

§97.1071. Special Program Performance; Monitoring, Review, and Supports ~~[Intervention Stages]~~ .

- (a) School districts and open-enrollment charter schools are subject to general supervision and monitoring activities for compliance with state law and federal regulation and review of program implementation and effectiveness within certain special populations of students. Activities may include:
- (1) random, targeted, or cyclical reviews authorized under Texas Education Code (TEC), §39.056, conducted remotely or on-site to identify problems implementing state and federal requirements and to provide support for development of reasonable and appropriate strategies to address identified problems; and/or
 - (2) intensive or special investigative remote or on-site reviews authorized under TEC, §39.057.
- (b) Activities described in subsection (a) of this section are applicable for compliance with requirements for reading diagnosis in TEC, §28.006, and dyslexia and related disorders in TEC, §38.003, and §74.28 of this title (relating to Students with Dyslexia and Related Disorders).
- (c) ~~[(a)]~~ The commissioner of education shall assign school districts, including open-enrollment charter schools, an annual determination level ~~[a school district to an intervention stage]~~ based on performance levels of certain special populations student groups under §97.1005 of this title (relating to Results Driven Accountability ~~[Performance Based Monitoring Analysis System]~~) according to the following general criteria:
- (1) the degree to which the district's performance reflects a need for targeted or intensive supports ~~[intervention]~~ , as indicated by the seriousness, number, extent, and duration of the student performance, program effectiveness, and/or program compliance deficiencies identified by the Texas Education Agency (TEA);
 - (2) a comparison of the district's performance relative to aggregated state performance and state performance standards ~~[to the performance of other districts]~~ ;
 - (3) a statistical distribution of ~~[the availability of state and regional resources to intervene in all]~~ districts exhibiting a comparable need for targeted support ~~[intervention]~~ ; and
 - (4) the length of time the performance standard has been in place and the length of time the district has exhibited deficiencies under the standard.
- (d) ~~[(b)]~~ In addition to performance levels determined under §97.1005 of this title, the commissioner may consider any other applicable information, such as:
- (1) complaints investigation results;
 - (2) special education due process hearing decisions;
 - (3) data validation activities;
 - (4) integrity of assessment or financial data; ~~[and]~~
 - (5) longitudinal intervention history ; ~~and~~ []
 - (6) other federally required elements.
- (e) ~~[(c)]~~ The standards used to assign districts to specific determination levels ~~[intervention stages]~~ under this section are established annually by the commissioner and communicated to all school districts. Determination level categories for assignment include:
- (1) meets requirements;
 - (2) needs assistance;
 - (3) needs intervention; and
 - (4) needs substantial intervention.
- (f) ~~[(d)]~~ In addition to determination levels described in subsections (c) and (e) of this section, the ~~[The]~~ commissioner may develop a system of cyclical monitoring to ensure every district participates in general

supervision activities. Based on a district's assigned determination level, as part of its cyclical monitoring process, or as part of compliance monitoring activities, ~~[use graduated stages of intervention to address student performance, program effectiveness, and/or data quality deficiencies referenced in §97.1005 of this title. In addition to any sanction authorized by Texas Education Code (TEC), Chapter 39, such intervention may require]~~ a district may be required to implement and/or participate in:

- (1) focused self-analysis ~~[analysis]~~ of district data and program effectiveness ;
- (2) focused remote and/or on-site review;
- ~~[(2) — required district review of program effectiveness;]~~
- (3) required stakeholder engagement ~~[public meetings]~~ ;
- (4) focused compliance reviews ~~[conducted by review teams established by the TEA]~~ ;
- ~~[(5) — on-site reviews; and/or]~~
- (5) ~~[(6)]~~ strategic support and continuous improvement planning ; and/or ~~[]~~
- (6) corrective action plan development.

(g) ~~[(e)]~~ The commissioner shall notify in writing each district identified for review under this section as a result of assigned determination level or cyclical selection prior to requiring a district to implement or participate in any activities included in subsection (f)(1)-(6) of this section ~~[selected for intervention under this section via the Intervention Stage and Activity Manager (ISAM) on the TEA secure website]~~ .

~~[(1) — The TEA shall notify districts that intervention stages have been posted to ISAM by:]~~

~~[(A) — posting a "To the Administrator Addressed" letter on the TEA web page for correspondence; or]~~

~~[(B) — sending a "To the Administrator Addressed" letter via electronic mail or first class mail.]~~

~~[(2) — It is the district's obligation to access the correspondence by:]~~

~~[(A) — subscribing to the listserv for "To the Administrator Addressed Correspondence;" and]~~

~~[(B) — accessing the ISAM system as directed to retrieve intervention instructions and information.]~~

(h) ~~[(f)]~~ Actions ~~[Intervention actions]~~ taken under this section are intended to assist the district in raising its performance and/or achieving compliance under §97.1005 of this title , statutory requirements in TEC, §28.006 and §38.003, and §74.28 of this title and do not preclude or substitute for a sanction under another provision of this subchapter.

~~[(1) — The level of intervention selected under this section does not reflect any decision on, or consideration of, the need for other sanctions.]~~

~~[(2) — A decision to impose other sanctions shall be based on the accreditation and compliance performance of the district, as determined under §97.1057 of this title (relating to Interventions and Sanctions; Lowered Rating or Accreditation Status) and this subchapter, and not on the level of intervention chosen under this section.]~~

(i) ~~[(g)]~~ Actions ~~[Intervention actions]~~ taken under this section do not preclude or substitute for other responses to or consequences of program ineffectiveness or noncompliance identified by the TEA, such as:

- (1) required fiscal audit of specific program(s) and/or of the district, paid for by the district;
- (2) required submission of improvement and/or corrective action plan(s), including the provision of compensatory services as appropriate, paid for by the district;
- (3) expanded oversight , including, but not limited to, frequent follow-up contacts with the district, submission of documentation verifying implementation of intervention activities and/or an improvement plan , ~~[]~~ and submission of district/program data;
- (4) public release of monitoring review findings;

- (5) denial of requests under TEC, §7.056 and/or §12.114;
- (6) reduction, suspension, redirection, or withholding of program funds;
- (7) lowering of the special education determination level ~~[monitoring status]~~ of the district; and/or
- (8) lowering of the district's accreditation status, academic accountability rating, and/or financial accountability rating.

~~[(h) As a system safeguard, the TEA will conduct desk review or on site data verification activities through a random or other means of selection to verify system effectiveness and/or district implementation of monitoring requirements, including, but not limited to, accuracy of data reporting, implementation of intervention activities, implementation of plans for improvement or correction, and accuracy of findings made through the performance based monitoring system process.]~~

Updated U.S. Armed Forces Enlistment Guidance

This document provides updated guidance for reporting enlistment in the U.S. Armed Forces in the fall 2020 TSDS PEIMS submission.

General Guidance

Last fall the agency conducted numerous district special accreditation investigations in response to inflated and potentially bad faith reporting of students enlisting or intending to enlist in the U.S. Armed Forces. As a result of actions on the part of certain districts, the agency revises its guidance from allowing districts significant discretion when reporting, to only accepting data that includes students falling into one of two categories: Confirmed Actual Enlistment and Confirmed Imminent Enlistment.

While the agency continues to work with the Department of Defense to obtain source data that accurately and precisely documents military enlistment, each district will continue to decide the methodology for collecting and documenting this indicator, subject to the following agency guidance:

- “Confirmed Actual Enlistment” means students who, by December 31 immediately following high school graduation, are confirmed to be enlisted in the military
- “Confirmed Imminent Enlistment” means students who, on the day of graduation, will enlist in the military by December 31 immediately following high school graduation
- The methodology used must be developed and applied in good faith and not intended to artificially inflate the CCMR indicator
- The methodology used must be reasonably calculated to accurately determine within a reasonable margin of error the Confirmed Actual Enlistment and Confirmed Imminent Enlistment of its graduating class
- Districts must maintain verifiable, supporting documentation that may be reasonably determined by the agency to conclusively demonstrate and accurately account for Confirmed Actual Enlistment and Confirmed Imminent Enlistment
- This documentation may be subject to audit by the agency

Examples of methodologies that may be determined as bad faith if utilized by a district include, but are not be limited to the following:

- Reporting students based solely on the district inducing student contact with a military recruiter (i.e. holding an assembly in the cafeteria with a military recruiter where student attendance is required or otherwise prompted by the district)
- A district soliciting student signatures on forms, including but not limited to senior surveys, indicating the student’s intent to enlist in the military when the district possesses no other documented evidence of Confirmed Imminent Enlistment
- Reporting students who have taken, but failed, the ASVAB
- Reporting students based solely on a student taking the ASVAB when the test is administered by the district but possesses no additional evidence of enlistment once the student receives the results of the test
- Reporting a student when there is evidence that the district is aware that the student is disqualified from military service
- Reporting students when the district possesses no or inadequate documentation

Updated U.S. Armed Forces Enlistment Guidance

Recommended Methodology

To demonstrate Confirmed Actual Enlistment, the agency will accept verifiable documentation from a military recruiter such as an email indicating enlistment, or any official Department of Defense document showing enlistment and acceptance into the United States military, so long as the enlistment occurs by December 31 immediately following high school graduation.

Additionally, the agency will consider it a rebuttable presumption that a district's methodology used to determine Confirmed Imminent Enlistment is developed in good faith if the district's methodology includes showing documented evidence of *each* of the following:

1. The student obtains a passing score on the ASVAB;
2. The student engages in a one on one meeting with a military recruiter at the request of the student;
3. After passing the ASVAB and meeting with the military recruiter, the student executes a form indicating the intent to enlist in the military by December 31 immediately following high school graduation and the student personally delivers the form to the district and the military recruiter; and
4. There is no evidence indicating that the student has been disqualified from military service or has otherwise indicated a subsequent lack of intent to enlist in the military.

For all students reported with methodologies other than the recommended methodology, the burden is on the district to demonstrate that it has otherwise complied with the standards set out in this guidance. Any district relying upon a methodology other than this recommended methodology acknowledges that compliance is solely determined by the Commissioner of Education.

Reporting

Each fall districts report military enlistment for the graduating class from the previous year in the TSDS PEIMS submission. Students should only be reported as enlisted in the United States Armed Forces if documentation supports Confirmed Actual Enlistment and/or Confirmed Imminent Enlistment. Districts use Element ID E1589 to indicate whether students enlisted in the United States Armed Forces. The data may be updated any time until the January resubmission deadline.

WARNING

EVIDENCE OF BAD FAITH REPORTING ON THE PART OF THE DISTRICT MAY LEAD TO AGENCY INTERVENTIONS INCLUDING THE LOWERING OF THE DISTRICT'S ACCREDITATION RATING, INSTALLATION OF A MONITOR, CONSERVATOR, AND/OR BOARD OF MANAGERS, AND ANY OTHER INTERVENTION ALLOWED BY LAW. ANY INDIVIDUAL SUSPECTED OF ENGAGING IN BAD FAITH BEHAVIOR INTENDED TO DEFRAUD THE ACCOUNTABILITY SYSTEM MAY BE REFERRED TO THE STATE BOARD FOR EDUCATOR CERTIFICATION FOR REVIEW OF THE OFFENDER'S CERTIFICATION

THIS IS NOT A TEST, THIS IS AN EMERGENCY:

Special Considerations for Assessing and Advancing Equity in School-Year 2020-21

KEY TAKEAWAYS

State policymakers are confronting well-documented intersecting crises – medical, economic, and racial – with especially dire implications for educational equity. State education leaders face a moral urgency to both understand and respond to the challenges students are experiencing and to do so in ways that address burgeoning equity gaps. Education assessment can play a crucial role in identifying these learning and related challenges, allowing policy leaders to direct resources to where the needs are the greatest. It will be incredibly challenging, however, to collect, interpret, and use high-quality state standardized test data this school year. This brief recognizes this conundrum and offers recommendations for state leaders regarding assessment in 2020-2021 including:

1. **Separate assessment from accountability.** There are serious threats to producing valid data to support accountability decisions this year. Changes to accountability systems will require a waiver to state ESSA plans and possibly change in state law or regulation.
2. **Plan now!** State standardized tests operate on a long planning and quality-control-cycle, therefore, the time to act is now. Planning must begin almost immediately. Waiting until January or February will be too late to adapt testing systems to best understand and act on opportunity gaps and learning progress. Plans should also account for various contingencies, particularly due to remote and hybrid schooling, and allow for adjustment as conditions change.
3. **Collect Opportunity-to-Learn (OTL) information.** States must design a system for collecting data to document and understand students' access to the resources, tools, and experiences they need to learn for two main reasons:
 - a. **State summative assessments do not provide information necessary** for policymakers to understand students' learning context. Indicators such as whether students have access to devices and broadband, the type (e.g., synchronous/asynchronous) and amount of instruction available, and the level at which students are engaged are essential for shining a light on inequitable opportunities and directing additional resources where they are most urgently needed.
 - b. **State summative assessment results cannot be interpreted** this year without a better understanding of the circumstances and opportunities facing students. Did a student or group of students get a question wrong because they did not know the concepts tested, were not taught the concepts as part of planned instruction, or did not have the technology to perform their best on the test? Without OTL data this year, it will not be possible to accurately interpret test score data.

State summative assessments do not provide information necessary for policymakers to understand students' learning context. Indicators such as whether students have access to devices and broadband, the type (e.g., synchronous/asynchronous) and amount of instruction available, and the level at which students are engaged are essential for shining a light on inequitable opportunities and directing additional resources where they are most urgently needed.

INTRODUCTION

Providing quality public education is among the most solemn and consequential of all state responsibilities. Regrettably, the education enterprise faces grave threats this year, requiring a lot of attention to the fundamentals of safety, stability and supportive relationships for students, who are experiencing unprecedented disruptions and stressors. State education leaders have responsibility to document the extent of the challenges and their influences on students, educators and schools. The state standardized tests have been an important tool for gathering data on achievement in English language arts, math and science for the last 20-30 years. We support state testing to monitor equity and other long-term educational trends. Unfortunately, there are many threats to defensible (i.e. valid) interpretations of test scores *this year*. State leaders are facing seemingly intractable choices this year, none of which is close to perfect. Unfortunately, state leaders are getting advice from the extremes —“test at all costs” versus “do not test under any circumstances”—and neither extreme is helpful to state leaders who are trying to do what’s best for students while dealing with a myriad of uncertainties. Therefore, this document attempts to present a balanced approach for state education and policy leaders regarding state assessment and OTL data collection efforts in 2020-2021.

The U.S. Department of Education’s September [letter to chief state school officers](#) indicated that the Department was not likely to grant a blanket waiver for Spring 2021 state assessments. The Secretary’s letter allows states to consider alternative data collection approaches in cases when it is either not possible to administer the regular state assessment or when it is likely the test cannot produce trustworthy results. States cannot and should not wait to begin their planning to determine if or how to assess this year because state assessment planning and implementation operates on a long time cycle. Policy leaders must communicate with educators and families clearly and honestly about the challenges they are confronting and to share the steps they are taking to support educators, students and families right now.

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THREATS TO VALID USES OF STATE TEST SCORES IN 2021

Policy leaders need trustworthy data to maintain moral and legal commitments to all students and especially to allocate resources to close equity gaps. State assessments have served an important monitoring function over the past 20 years to help shine a light on differential learning outcomes for specific groups of students. Therefore, many leaders are feeling pressure and responsibility to continue relying on state assessments in spring 2021.¹ But what if the assessment data this year are not capable of supporting the important decisions facing educational leaders? Some say, “It is better to have low-quality data than none at all.” But that’s not true. There is a long-history of students, particularly low-income students and students of color, being over-identified for special education, subject to over-remediation, denied grade promotion, and kept out of advanced classes based on tests scores that have not been validated for such uses. In the current context, acting on weak data carries considerable costs and risk, such as misrepresenting actual achievement, encouraging inordinate focus on remediation rather than access to grade-level content, and exacerbating stress and anxiety being experienced by all students and educators, but especially by those furthest from opportunity.

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¹ Note: We refer only to state summative assessments in this document and not interim or other assessments generally under the control of local school districts.

As tempting as it might be in what seems like a data desert, grasping at invalid test scores may be like lunging toward a pool of water in a mirage. It may intuitively feel like the right thing to do, but due to this year's circumstances, such actions may lead to serious unintended consequences, especially when time, attention, and other resources are scarce.

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Valid interpretations of test scores in the 2020-2021 school year are subject to many more threats than in *any* previous year in the modern testing era. Validity is always evaluated in the context of use. State test scores are used to support accountability determinations, but also serve important monitoring and evaluation uses. There are a [range of schooling scenarios](#) (in-person, hybrid, remote) currently employed and unless conditions change dramatically between now and next spring, we believe federal school accountability requirements will be either waived or modified because the threats to meaningfully interpreting the scores are so substantial that traditional accountability uses will be indefensible. Thus, our discussion here focuses on other uses of test score results to understand student achievement at individual and aggregate levels.

There is no question the coronavirus pandemic and the sudden shift to remote schooling last March has had a dramatic impact on students' opportunities to learn. Worse, there is considerable [evidence](#) that as many as one-third of students, many of whom already experienced significantly fewer educational opportunities, were essentially disengaged from school all last spring. With a significant proportion of students starting this school year in remote or hybrid situations, we expect similar challenges to learning even as we acknowledge that educators and leaders have considerably improved the quality of online learning compared to last spring. Some might suggest these disruptions are the reason *for* giving state assessments this year. When students lack opportunities to learn the content on the test, however, users risk drawing invalid conclusions about the quality of school programs or the efforts of teachers. While trustworthy student achievement data would certainly be helpful in understanding the scope of the crisis, using that information as a basis to support claims or make attributions about the effectiveness of educators, programs, or schools this year is irresponsible.

The more substantial threats to accurate interpretations of test scores are tied to the considerable likelihood that many or most students will be unable to test in schools this year. Some assessment companies have made considerable progress in administering tests remotely. However, none of these companies have produced evidence that scores from remote- and in-school-administered tests meet technical comparability requirements. In other words, just because a test can be delivered to a student remotely does not mean educators and leaders can treat the scores interchangeably with tests administered in traditional in-school settings.

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Security issues are typically the first concern regarding remotely-administered tests because the level of remote proctoring necessary to prevent cheating for an examination taken outside of school would require a level of intrusiveness that is not likely to be acceptable and may not be legal in many states. Therefore, security is a considerable threat to score meaning for remotely administered tests. Even if security concerns can be overcome, there are many other threats to the interpretability of scores from remotely administered tests. Differential access to the internet, devices, and quiet spaces for instruction and assessment threaten the comparability of scores from remote and in-person tests. Even relatively stable internet access is no guarantee that testing will not be interrupted; all of us have experienced failed Zoom connections during an important meeting. Additionally, we must consider how differences in test administration conditions will affect students. For example, one student may be able to test in a quiet location with little disturbance (e.g., a private bedroom), whereas another student must complete the test in a location filled with distractions (e.g., at the kitchen table with multiple siblings). This variability in environment influences focus and motivation differently compared to student testing in traditional classroom settings.

Finally, most current remote administration platforms do not offer the full range of test accommodations characteristic of standard administration platforms for English learners and students with disabilities. Further, accommodations requiring the participation of special educators, translators, or other specialized personnel may not be available at all or have to rely on an untrained adult (e.g., parent) to help. Beyond the obvious comparability threats when some students receive appropriate accommodations and others do not, there are potential legal issues under the Individuals with Disabilities Education Act (IDEA) and Title III of the Every Student Succeeds Act (ESSA) if students do not receive necessary accommodations.

There are likely many more threats to accurate interpretations than these examples. We have serious doubts whether testing under these conditions can produce an accurate picture of what students know. Taken together, these challenges make it doubtful that test scores from remote and in-person administrations can be combined such that valid interpretations are supported. Being able to aggregate and compare results across schools, districts, and subgroups is the cornerstone of current school accountability systems, but it is also critical for accurate monitoring of score trends.

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WHAT SHOULD EDUCATION POLICY LEADERS DO?

Opportunity-to-Learn Indicators

The learning conditions last spring and into this year warrant an expanded indicator system. Policymakers should focus on designing and implementing opportunity-to-learn (OTL) data collection efforts. There is a long tradition of collecting OTL data as part of surveys of learning conditions as well as embedded in large-scale testing programs. These data have been critical in helping to understand varying levels of educational inputs (e.g., access to curricular and instructional materials, safe and healthy conditions for learning), but have also provided valuable information for interpreting test results. Both functions for OTL data are necessary in any year, but even more so this year.

Validly interpreting the result of the 2021 state assessment, even if administered somewhat normally in schools, will still be challenging ([Keng, Boyer, & Marion, 2020](#)). Drawing credible inferences about student and school performance if a critical mass of students test remotely will be more tenuous. OTL data can contextualize test results to help test users better understand what test scores mean when there is more than typical uncertainty. Additionally, the richness of the OTL data can supplement the information gained from test scores so educational leaders have a more complete picture of the educational system than from test scores alone.

What if, for any number of reasons, states do not test this year? High-quality OTL data across multiple levels of the educational system can provide rich information, so state leaders can direct resources to places where students do not have meaningful and equitable learning opportunities. Therefore, state leaders should prepare a robust OTL data collection system whether statewide standardized tests happen this year or not. Thinking long-term, states should be collecting OTL data regularly, so this could be a good example of not letting a crisis go to waste and design a longer-term strategy for regular OTL data collection and use.

Most previous OTL data collection efforts focused on student- and teacher- level variables. The current crises have brought systematic and structural inequities to the forefront; therefore, state leaders should collect data at multiple levels of the system—such as states, districts, teachers, and students—and consider how these indicators interact with race and class. For example, indicators at the district and even state level would include such factors as internet and device availability because individual schools should not be solely responsible for providing access to these essential materials. Additionally, students, teachers, and parents, via surveys, can provide [key insights on the conditions of learning](#) in remote settings. Critical indicators at the school and classroom level would include records of “attendance,” including in online learning, and

engagement with grade-level content judged by completion of assignments or some other approach. State leaders should solicit information from schools about the types of instructional approaches (synchronous, asynchronous) and how much time students are afforded to interact with each other and with caring adults.

It is beyond the scope of this document to provide detailed data collection plans. While it may be challenging for some states to design and establish new OTL data collection systems, this is not a new field so states can work with technical advisors and other partners to prioritize a few key measures to start with this year, while planning for a more robust OTL data collection and reporting system for the future, along with training so key users understand how to accurately interpret and use the results. Regardless of state decisions on assessment administration, each state can and should collect and report some data on opportunity to learn this year and they should build OTL indicators into their long-term reporting systems.²

Large-scale testing

We support large-scale testing, but are concerned with the many threats to justifiable interpretations to test scores this school year. Therefore, we offer the following suggestions regarding state standardized testing for this year:

1. If conditions do not markedly improve, and especially if they deteriorate, state leaders must ask if administering statewide standardized tests is warranted. They should ask their assessment specialists to articulate the specific purposes and uses for testing in spring 2021 and then require an honest appraisal about whether the threats to valid interpretations have been addressed such that the test can fulfill the intended purposes and uses. Negotiating with the U.S. Department of Education on these issues will be required, but federalism requires a robust dialogue and due regard for the considered judgments of state education and political leaders, especially in responding to multiple emergencies with highly constrained resources.
2. We recommend using information about prioritized standards³ and curriculum to shorten and adjust test blueprints, whether tests are administered in person or remotely. For example, by eliminating the requirement for producing “subscores” (i.e., scores assigned to specific domains within the topic, such as “numbers and operations” on a 5th grade math test) in addition to overall achievement, tests could be considerably shorter. Most technical advisors agree that such subscores add very little value even in the best of times, so this could be a good time to eliminate them for good.
3. If almost all schools and students in a state remain in school for in-person instruction throughout this academic year, then using the existing state assessment may be justified taking into account recommendation #1. Wherever possible, students should test in school, so testing conditions are most similar to past approaches. This must be thoughtfully balanced with the health and safety concerns for students, families, and staff.
4. If a state moves forward with remote administration, it is imperative to decouple the test from any accountability uses and to eschew comparability claims. There have been no studies documenting the comparability of remote and in-person test scores. Therefore, if the state administers remote assessments, they must conduct comparability studies and issue clear guidance for how to properly interpret and use these results and how to avoid misinterpretations and use. Further, state leaders will have to be ready to address and deal with lower than typical rates of participation.

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² See: Floden, R. E. (2002). The Measurement of Opportunity to Learn. in Porter, A. C. & Gamoran National Research Council. *Methodological Advances in Cross-National Surveys of Educational Achievement*. Washington, DC: The National Academies Press. <https://doi.org/10.17226/10322>.

³ See: Student Achievement Partners' [2020-2021 Prioritized Instructional Content in English Language Arts/Literacy and Mathematics](#).

5. If the goal is to take the pulse of the educational system, there is no need to test every student on all of the content. States could employ numerous sampling strategies such as testing a representative set of students in every grade or testing only a few grades like what is done with state science tests; these strategies can produce group data to track equity gaps but not produce scores for every individual student. Sampling approaches would have the added benefits of reducing costs and clearly signaling that this year is different and ameliorating accountability fears. As we noted, any such changes would require a waiver from ESSA testing requirements and considerable planning time, so states must undertake such planning now.

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In putting forward a testing plan, all of these options must be balanced against the potential misuse of tests—e.g., labeling students, excessive test prep, and mind-numbing remediation activities—and potentially lost opportunities for making sure every student is seen, supported, and engaged in learning this year. Regardless of the scenario, state leaders must work with their assessment providers and technical advisors early and often to address the logistical, technical, and contractual ramifications of their policy. Waiting until spring 2021 to make changes will foreclose many meaningful options for adaptation.

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What about accountability?

While the U.S. Department's stance on assessment sounded firm, the door to accountability waivers appears to be at least partially open. We believe that school, teacher, and student accountability, as we know it, should be suspended for 2020-2021. However, we strongly support a focus on reporting key indicators for which the state, district, and communities—as well as schools—are responsible, such as OTL indicators that can shine a light on which students have—and have not—been afforded access to meaningful learning opportunities.

FOCUS ON WHAT MATTERS MOST

In this historic year, states are forced to prioritize among competing uses of limited time, money, and attention. We urge an emphasis on wellness of students and staff first, and then addressing assessment issues in light of the need for data to understand the scope of the crisis. We pointed out that OTL measures may provide data to help decide where needs are greatest without the potential negative consequences associated with pushing forward state standardized tests.

We fully expect and support state standardized tests remaining a prominent feature of public education in the future. No matter what, decisions regarding testing should be communicated early and clearly to educators, students and families. Additionally, state policymakers can and should communicate the ongoing commitment to equity and the measurement of learning to avoid strengthening the hand of testing opponents.

Some advocates argue that unless state leaders continue their assessment programs this year, they risk never being able to return to the current system of assessment and accountability. But recklessly pushing ahead with statewide testing could be a case of winning the battle only to lose the war. When many students and caregivers are experiencing adversity and intense stress, being forced to change routines and commit days to state testing could inspire new levels of resistance that would re-energize and expand the opt-out movement of a few years ago.

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State and district educational leaders must always focus on creating excellent and equitable learning opportunities for all children. The conditions this year require these leaders to focus even more intensely on the core mission of addressing pervasive and unconscionable opportunity gaps while supporting local educators and students with resources necessary to engage in meaningful learning. Wise use of robust OTL measures along with state assessment results, if they can be collected, can provide information educational leaders need to support their students this year. Policymakers need to begin planning now and, regardless of decisions on state summative assessments, all states need to move immediately on collecting and reporting OTL data.

Suggested citation:

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