

281—41.160(256B,34CFR300) Participation in assessments.

41.160(1) General. The state must ensure that all children with disabilities are included in all general state and districtwide assessment programs, including assessments described under Section 1111 of the ESEA, 20 U.S.C. Section 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in their respective IEPs.

41.160(2) Accommodation guidelines.

a. The state (or, in the case of a districtwide assessment, an LEA) must develop guidelines for the provision of appropriate accommodations.

b. The state's (or, in the case of a districtwide assessment, the LEA's) guidelines must:

- (1) Identify only those accommodations for each assessment that do not invalidate the score; and
- (2) Instruct IEP teams to select, for each assessment, only those accommodations that do not invalidate the score.

41.160(3) Alternate assessments.

a. The state (or, in the case of a districtwide assessment, an LEA) must develop and implement alternate assessments and guidelines for the participation of children with disabilities in alternate assessments for those children who cannot participate in regular assessments, even with accommodations, as indicated in their respective IEPs, as provided in subrule 41.160(1).

b. For assessing the academic progress of students with disabilities under Title I of the ESEA, the alternate assessments and guidelines in paragraph 41.160(3) "a" must provide for alternate assessments that:

(1) Are aligned with the state's challenging academic content standards and challenging student academic achievement standards;

(2) If the state has adopted alternate academic achievement standards permitted in 34 CFR 200.1(d), measure the achievement of children with the most significant cognitive disabilities against those standards; and

(3) Except as provided in subparagraph 41.160(3) "b"(2), a state's alternate assessments, if any, must measure the achievement of children with disabilities against the state's grade-level academic achievement standards, consistent with 34 CFR 200.6(a)(2)(ii)(A).

c. Consistent with 34 CFR 200.1(e), a state may not adopt modified academic achievement standards for any students with disabilities under Section 602(3) of the Act.

41.160(4) Explanation to IEP teams. The state (or, in the case of a districtwide assessment, an LEA) must provide IEP teams with a clear explanation of the differences between assessments based on grade-level academic achievement standards and those based on alternate academic achievement standards, including any effects of state or local policies on the student's education resulting from taking an alternate assessment based on alternate academic achievement standards (such as whether only satisfactory performance on a regular assessment would qualify a student for a regular high school diploma).

41.160(5) Inform parents. The state (or, in the case of a districtwide assessment, an LEA) must ensure that parents of students selected to be assessed based on alternate academic achievement standards are informed that their child's achievement will be measured based on alternate academic achievement standards.

41.160(6) Reports. The state (or, in the case of a districtwide assessment, an LEA) must make available to the public, and report to the public with the same frequency and in the same detail as it reports on the assessment of nondisabled children, the following:

a. The number of children with disabilities participating in regular assessments, and the number of those children who were provided accommodations (that did not result in an invalid score) in order to participate in those assessments.

b. The number of children with disabilities, if any, participating in alternate assessments based on grade-level academic achievement standards.

c. The number of children with disabilities, if any, participating in alternate assessments based on modified academic achievement standards in school years prior to 2015-2016.

d. The number of children with disabilities, if any, participating in alternate assessments based on alternate academic achievement standards.

e. Compared with the achievement of all children, including children with disabilities, the performance results of children with disabilities on regular assessments, alternate assessments based on grade-level academic achievement standards, alternate assessments based on modified academic achievement standards (prior to 2015-2016), and alternate assessments based on alternate academic achievement standards if:

(1) The number of children participating in those assessments is sufficient to yield statistically reliable information; and

(2) Reporting that information will not reveal personally identifiable information about an individual student on those assessments.

41.160(7) *Universal design.* The state (or, in the case of a districtwide assessment, an LEA) must, to the extent possible, use universal design principles in developing and administering any assessments under this rule.

[ARC 7792C, IAB 4/17/24, effective 5/22/24]