



**Education Task Force  
Statement on the Importance of  
State Assessments & Accountability for Students with Disabilities  
In the 2021-2022 School Year**

The COVID-19 pandemic has brought with it unprecedented challenges, particularly for students who have been historically underserved and marginalized, including the nation's 7 million school age students with disabilities. The experience of students with disabilities has varied dramatically from district to district and state to state. For example, some students have not received the services guaranteed to them through their Individualized Education Programs (IEPs) and others have developed new and different needs as a result of the disruption the pandemic has caused.

The U.S. Department of Education (ED) provided all states a waiver of the statewide assessment, accountability and reporting requirements in the Elementary and Secondary Education Act as amended by the Every Student Succeeds Act (ESSA) for the 2019-2020 school year due to widespread school closures related to the novel Coronavirus disease (COVID-19). ED also provided all states a waiver of accountability, school identification, and related reporting requirements for the 2020-2021 school year. The lack of reliable assessment data for two consecutive school years poses a significant challenge in understanding the academic achievement of all students and, in particular, student groups disproportionately impacted by the pandemic. We agree with the concern expressed by a number of education groups in their August 18, 2021 [letter to the Education Secretary](#) which states:

*“Our fear is that the loss of equity guardrails provided by transparent student testing data may result in a return to the days when inequitable outcomes for students of color, English learners, students with disabilities, and students from low-income backgrounds were easily swept under the rug... It is more important than ever to collect valid, reliable, comparable, statewide data on student achievement and use that information to help improve low-performing schools and close achievement gaps exacerbated by the pandemic.”*

To support states in ensuring the educational success of all students, including students with

disabilities CCD **reiterates our long-standing expectations for the assessment and accountability of students with disabilities** even during these unprecedented times. These expectations are representative of long-standing CCD policies and are grounded in civil rights laws such as the Individuals with Disabilities Education Act (IDEA) and Section 504 of the Rehabilitation Act of 1973 (Section 504) as well as the ESSA.

**1. States must be required to administer annual state assessments that include students with disabilities in the 2021-2022 school year.** States must administer annual state assessments and must comply with 34 CFR §§ 200.2–200.9. Specifically, states must comply with 34 CFR §200.6 regarding inclusion of students with disabilities. States have only two ways to include students with disabilities in state academic assessments. These are:

- *Assessment aligned with the challenging state academic standards for the grade in which the student is enrolled, with appropriate accommodations as needed; or*
- *Alternate assessments aligned with alternate academic achievement standards for students with the most significant cognitive disabilities as defined by the state. Alternate achievement standards must be based on the state content standards for the enrolled grade. The number of students with the most significant cognitive disabilities assessed using an alternate assessment may not exceed one percent of the total number of students assessed in the state.*

The inclusion of students with disabilities is also required by the IDEA, 34 CFR §300.160, which states that “A State must ensure that all children with disabilities are included in all general State and district-wide assessment programs, including assessments described under section 1111 of the ESEA, 20 U.S.C. 6311, with appropriate accommodations and alternate assessments, if necessary, as indicated in their respective IEPs.”

**2. States must also adhere to the ESSA requirement to assess at least 95 percent of all students, including at least 95 percent of students with disabilities.** This participation requirement ensures that the results of state assessments are representative of all students and each student subgroup, including students with disabilities. 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. To help states meet this requirement, the National Center for Educational Outcomes (NCEO) recently released [\*The 95 Percent State Assessment Participation Requirement: Current Landscape, State Challenges, and Recommended Strategies.\*](#)

**3. The results of state assessments must be used to determine which schools are in need of improvement so ESSA funds can support underperforming student subgroups, such as students with disabilities.** The value of state assessments is that they help provide a systemic picture of how students are being served. Given the variation in how districts are responding to the pandemic and whether they are continuing to provide rigorous instruction, supports, and services to students with disabilities, it is essential to be able to compare between schools and across districts how students with disabilities are performing. Such comparison and the identification of schools whose student subgroups are underperforming results in additional funding which can support comprehensive intervention and support.

*“For many elementary and secondary school students with disabilities, COVID-19 has significantly disrupted the education and related aids and services needed to support their academic progress and prevent regression. And there are signs that those disruptions may be exacerbating longstanding disability-based disparities in academic achievement.”*

Source: [Education in a Pandemic: The Disparate Impacts of COVID-19 on America’s Students](#), U.S. Dept. of Education Office for Civil Rights

- 4. The administration of state assessments required by ESSA should not preclude districts from administering formative or interim assessments to monitor student progress and inform instruction.** In fact, it is imperative that districts develop a system for progress monitoring in order to adequately assess students’ needs and growth over time and make instructional decisions. Reports show that an interim assessment option for students with the most significant cognitive disabilities does not yet exist in states’ overall assessment systems and that omission must be addressed. The purpose of formative and interim assessments is distinctly different from that of state summative assessments and districts need not choose between administering either type of assessment.
- 5. ED should provide states with ongoing, comprehensive technical assistance to support the administration of assessments and provision of accommodations, assistive technology, devices, services, and other supports required to fully include students with disabilities.** Technical assistance should be provided to states so that district and school personnel are equipped and trained for in-person, hybrid and/or remote administration of assessments so that every student eligible for accommodations under IDEA and/or Section 504 has access to interoperable assistive technology, devices, services, and other approved supports.
- 6. States seeking to amend their state ESSA plan must detail how they will improve conditions for learning due to the pandemic and what specific steps will be taken to support students who are struggling, such as those with disabilities.** The pandemic has exacerbated the challenges facing educators and students. The purpose of ESSA is “to provide all children

significant opportunity to receive a fair, equitable, and high-quality education, and to close educational achievement gaps" therefore, States must thoughtfully consider in making any amendments to their state plan how the needs of students have changed—academically, socially, emotionally, and behaviorally—in order to help districts and schools plan to effectively meet their needs.

These expectations are supported by the NCEO Policy Brief, [Getting Ready for the 2021-22 School Year: Frequently Asked Questions \(FAQs\) About Testing Children with Disabilities](#), which states:

*"It is important that all children, including children with disabilities, participate in all required tests so that they can benefit from the same educational opportunities as their peers without disabilities. Past history showed that when excluded, these children suffered many unintended consequences such as watered-down curricula and less instructional attention. This often resulted in depressed progress through school and failure to achieve positive post-school outcomes."*

Lastly, we note that the Elementary and Secondary Education School Relief (ESSER) Fund, which provides \$190 billion in Federal funds for K-12 schools to States and LEAs via the CARES, CRRSA and American Rescue Plan Acts, is available to support students with disabilities. Thus, inadequate funding to address the learning loss of students with disabilities should not be a reason to exclude or marginalize their participation in assessments and accountability. As stated in ED's [Strategies for Using American Rescue Plan Funding to Address the Impact of Lost Instructional Time](#):

*"Even before the COVID-19 pandemic, there were significant gaps between the proficiency and graduation rates of students with disabilities and their peers without disabilities, even though research demonstrates that students with disabilities can meet the same academic standards when provided high-quality evidence-based instruction and needed services and supports."*

American Association on Intellectual and Developmental Disabilities  
American Council of the Blind  
American Foundation for the Blind  
American Music Therapy Association  
American Occupational Therapy Association  
American Physical Therapy Association  
American Printing House for the Blind  
American Psychological Association  
American Therapeutic Recreation Association  
Assistive Technology Act Programs  
Assistive Technology Industry Association  
Association of University Centers on Disabilities  
Autism Society of America  
Autistic Self Advocacy Network

Bazon Center for Mental Health Law  
Brain Injury Association of America  
Center for Learner Equity  
Children and Adults with Attention-Deficit/Hyperactivity Disorder  
Council for Exceptional Children  
Council for Learning Disabilities  
Council of Parent Attorneys and Advocates  
Cure SMA  
Disability Rights Education & Defense Fund  
Division for Learning Disabilities of the Council for Exceptional Children  
Easterseals  
Higher Education Consortium for Special Education  
National Association of Councils on Developmental Disabilities  
National Association of School Psychologists  
National Center for Learning Disabilities  
National Center for Parent Leadership, Advocacy, and Community Empowerment  
National Council on Independent Living  
National Disability Rights Network  
National Down Syndrome Congress  
RespectAbility  
Spina Bifida Association  
Teacher Education Division of the Council for Exceptional Children  
The Advocacy Institute  
The Arc  
United Spinal Association

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*The Consortium for Citizens with Disabilities (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. The Education Task Force monitors federal legislation and regulations that address the educational needs of children with disabilities and their families, including the Individuals with Disabilities Education Act (IDEA) programs. The Education Task Force advocates for enhanced opportunities for children under these laws.*

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