



Commemorating 40 Years Of Disability Advocacy 1973-2013

May 13, 2013

Partnership for Assessment of Readiness for College and Careers (PARCC)
1400 16th Street NW, Suite 510
Washington, DC 20036

To Whom It May Concern:

The Consortium for Citizens with Disabilities (CCD) Education Task Force and the Technology and Telecommunications Task Force represent the six million students identified with disabilities served under the Individuals with Disabilities Education Act (IDEA) and the nearly 500,000 students identified with disabilities and served under Section 504 of the 1973 Rehabilitation Act (Section 504). We are pleased to provide these comments on the draft of the PARCC Accommodations Manual.

As we noted in our comments dated February 4 and 20, 2013, on PARCC's Draft Policies on Reading Access/Use of Calculator and Draft Policies on Writing Access Accommodations, the promise of common assessments developed by the consortia funded with more than \$500 million of public dollars to accurately assess students with disabilities cannot be overstated. We appreciate PARCC addressing the shared goal and need to provide universally designed assessments. In short, we believe that the move from fixed-form tests to computer-based tests provides new opportunities for accessibility that can provide significant benefits to students with disabilities. As both research and practice show, students with disabilities have struggled unnecessarily with poorly designed pencil-and-paper assessments. These assessments were not designed to include the principles of universal design (UD). Adherence to UD principles should result in assessments that meet high standards for accessibility and result in greater equity for students with disabilities and minimize the need for test "accommodations" as we currently know them.

CCD remains hopeful and intent in helping PARCC ensure that modern-day advances in test item design and testing systems/delivery will directly benefit the students that have much to gain in this new era of assessments. To that end, our comments seek to provide input to the PARCC Accommodations Manual related to:

- I. Progress made from PARCC's first draft accommodation policies in February 2013;
- II. PARCC's approach to embedded supports, accessibility features and accommodations;
- III. Assessment design and item validity related to accommodations;
- IV. The rights afforded students with disabilities under IDEA and Section 504 and recommendations.

I. Progress in PARCC draft policies: February 2013 – April 2013

The CCD would like to first thank PARCC for including and acknowledging the nearly 500,000 students in our nation's public schools who qualify for accommodations under Section 504 and for listening to CCD's concern that they were not previously included. These students stand to make great academic gains under the Common Core State Standards and related assessments if we consistently include and acknowledge the accommodations and support they need to succeed in school. However, throughout the manual, PARCC should clarify that

alternate assessments are available only to IDEA-eligible students. Students with only Section 504 eligibility must participate in the general assessments.

Also, CCD supports the guidance provided to school leaders and teachers regarding the following:

- a. **Setting High Expectations:** We appreciate the strong message PARCC is sending regarding the expectation that all students, including students with disabilities, can achieve grade-level content standards. We could not agree more and appreciate the emphasis the Accommodations Manual places on this point.
- b. **Assigning Accommodations:** PARCC emphasizes that teachers should not simply assign accommodations to students based on their disability/IEP category, but rather choose them according to demonstrated individual need. CCD encourages PARCC to further discuss and emphasize this point. PARCC could also provide concrete examples, in the Online Professional Development Module that is in development. CCD remains concerned that IEP teams will use an automated drop-down list of accommodations by disability type rather than ensure the student's accommodation needs are fully discussed. IEP teams need guidance, support and training to assure IEP teams individualize accommodation decisions.
- c. **Classroom, Formative and Summative Use of Assessment:** As we all know, students should not use any of the approved accommodations for the first time on either a formative or a summative test. Students must use the accommodation in the classroom in order to be prepared to use it in any testing environment. The Accommodation Manual makes this point and CCD urges PARCC to continue to reinforce this point. CCD remains concerned that during the initial years of testing that this may be overlooked and therefore limit the ability of students to fully demonstrate what they know. Teachers will need training about the use of accommodations and PARCC must help ensure states have the information they need to support every teacher as the new assessments are implemented.
- d. **Accommodations vs. Modifications:** CCD also appreciates the reinforcement and distinction in the Accommodations Manual about the differences between modifications and accommodations. CCD believes this provides a wonderful opportunity to help educate school leaders and teachers about setting high expectations for all students and that the new assessments should in no way lower expectations.

II. PARCC's Approach to Embedded Supports, Accessibility Features and Accommodations

The assessment consortia were neither asked to nor required to develop a policy on providing access to universally designed features. Rather, consortia were required to develop assessments reflective of our very best knowledge of accessible assessments, including principles of universal design. This requirement is separate and distinct from the requirement to develop a common set of policies and procedures for accommodations (as defined in the notice) and student participation. Thus, it is critical that PARCC reexamine its current approach in separating 'embedded supports' from 'accessibility features' in order to align with the grant requirements.

PARCC proposes three categories/layers of support labeled Embedded Supports, Accessibility Features and Accommodations. These categories are presented in order from those that will have access to all features—currently entitled Embedded Supports, to Accessibility Features—which are only available to certain students whose 'personal needs

plan' (PNP) would determine availability and finally to Accommodations—which are limited to just a few students with disabilities that meet PARCC-provided guidelines for eligibility/access.

Comment: Embedded Supports as a term of art is unnecessary. Since all options are “available by default” and require no documentation, there is no logical reason to establish this category. In fact, as stated earlier, designing assessments with maximum accessibility is a requirement of the grant. CCD recommends PARCC eliminate the new term and category.

Accessibility Features: This new term and category is highly problematic for several reasons, including the following:

- It is beyond the scope of the requirements of the grant. The category creates a new cohort of students who could be deemed eligible for certain “access.” However, most of the features listed under Accessibility Features should, in fact, be designed into an accessible assessment and therefore not be subject to any sort of documentation/review or eligibility process.
- Creating a new document known as a “personal needs plan” (PNP) introduces a host of problems. The fact that accessibility features/options may be selected by an individual educator or an undisclosed educational team is problematic and places an undue burden on schools and teachers.
- The development of a new category of ‘eligible’ students that conflict with requirements under Section 504 and the IDEA should also be taken very seriously. The options should either be available to everyone based on informed choice (in which case the options would not be a matter of accessibility) or they should be determined by the student’s IEP or 504 team. The IEP or 504 team should determine whether a feature or set of features will be turned off based on the individual needs of a student. Opening up these decisions beyond those two groups of students will likely result in students receiving unfair and/or inappropriate accommodations in violation of IDEA, Section 504 and the ADA. CCD urges PARCC to rethink this proposed category and make all of these features and those currently listed under embedded supports available to every student participating in the PARCC assessment unless the IEP or 504 team determines otherwise based on individual student needs.

Accommodations: PARCC has accurately described eligible students as only students eligible in accordance with an ELL, IEP or 504 plan. However, CCD takes issue with the overly restrictive policy guidance to IEP/504 teams about how to determine eligibility for the outlined accommodations, including special access accommodations. We provide further comment and recommendations on this in Section IV of our comments.

III. **Assessment Design and Item Validity Related to Accommodations**

As CCD stated in both of our February 2013 letters, we believe that PARCC has used an inappropriate theoretical approach to the development of its accommodation policies. Specifically, PARCC continues to base the accommodation policy on a psychometric approach to “validity” that considers individual student characteristics as the core of the determination of “invalidating” the test construct rather than basing invalidation on the provision of a particular accommodation on the design and intent of each test item.

CCD believes the development of this accommodation policy should be based solely on the test item with an analysis of whether or not use of the accommodation “fundamentally alters” what is intended to be assessed. Thus the limits placed on the special access features’ for certain students with disabilities should be solely based on the content of each test item.

PARCC has created 'special access accommodations' that are limited to students that meet a predefined set of characteristics rather than assuring and providing evidence that the use of such 'special access accommodations' fundamentally alters what is intended to be assessed by the test item.

Although requested, PARCC has not provided to CCD any information about the process PARCC has undergone to analyze test items and determine if any potential access feature or accommodation truly invalidates the core test construct intended to be measured. Additionally on this point, PARCC's own reporting on the Master and Sub-Claims driving the design of the PARCC ELA/Literacy Summative Assessment don't require for instance, that 'decoding' will be measured as a component of determining the degree to which students are "on track" for college and career readiness in ELA/Literacy. This supports CCD's issue with PARCC's approach to pre-determining which accommodations invalidate a score a priori.

Specifically, we continue to ask for information to answer the following questions we've shared in writing and in recent meetings with the U.S. Department of Education and PARCC:

- How was an in-depth analysis of each test item conducted by PARCC to determine if items will be fundamentally altered at each grade level by using a calculator, read aloud or writing access accommodation?
- Who are the accessibility, assistive technology and disability experts PARCC is using to participate in the analysis and testing?
- What is PARCC's technical design process to ensure current users of assistive technology (AT) will be able to use the AT they are comfortable with to interface with the proposed test delivery platform? This remains unresolved and CCD wishes to remind PARCC that APIP is not an acceptable accessibility standard and on its own does not ensure students will be able to use their own AT.

Recommendations: PARCC must individually review each test item to show with *undisputed evidence* that use of such accommodation(s) will fundamentally alter the test construct. PARCC must also ensure that the test will adapt to the broad array of AT devices currently used by students with disabilities rather than require students to adapt to new technology or possibly go without AT support.

All access features should be available **without restriction** until there is consistent evidence that a particular test item is fundamentally altered by use of such feature. We encourage PARCC to actively work with the disability and assistive technology experts to more fully address our ongoing concerns and revise this policy.

IV. The rights afforded students with disabilities under Section 504 and IDEA

While the assessment consortia are charged with developing a common set of policies and procedures for providing assessment accommodations for students with disabilities, the rights of students with disabilities found to need special education services and supports under the Individuals with Disabilities Education Act (IDEA) must not be compromised. IDEA students are entitled to individual appropriate accommodations necessary to measure the academic achievement and functional performance on State and district-wide assessments as determined by the IEP team. Decisions regarding assessments and accommodations must be made at least annually and must be documented in the student's IEP. 34 C.F.R. § 300.320(a)(6)(i).

PARCC has an obligation to ensure that all students with disabilities participate in state and district assessments. Under Section 504 of the Rehabilitation Act and the Americans with Disabilities Act, students with disabilities cannot be discriminated against and must be

provided comparable aids, benefits and services to demonstrate, and be accurately assessed on, their acquisition of the actual skills and knowledge in the Common Core. Barriers must be removed that limit their opportunity to do so. 34 C.F.R. § 104.4(b)(1), (2).

In addition, as CCD has stated in writing and in meetings with U.S. Department of Education and PARCC, the consortia must exercise restraint in the development of accommodation policies and procedures in order to support and align with the statutory responsibility of the IEP team with regard to accommodation determination.

Recommendations: Strike the entire Guidance to IEP/504 teams. The PARCC assessment accommodation policy must assure that any accommodation is available and open to any student with a disability that the IEP determines to be in need of accommodations in order to fully participate.

Also, as previously recommended, PARCC should shift to an analysis *focused exclusively on the test items* to adequately address the appearance of disability-based discrimination in the proposed special access accommodation policy.

Rationale: Again, as we stated in April 2013, the PARCC policy directly conflicts with Section 504 IDEA and the ADA. A student with a disability who is eligible under IDEA and/or Section 504 cannot have his/her right to participate meaningfully in an assessment provided to all other students conditioned upon actions (e.g. provision of research-based intervention) of the student's IEP team and/or Section 504 team. Failure to ensure that such a student has an opportunity to demonstrate his/her knowledge and skills of the Common Core Standards as all other students would be discriminatory under Section 504 and be a deprivation of comparable benefits and services as provided under 34 C.F.R. §104.4.

Under IDEA, the only limit placed on the IEP Team's choice of accommodations is those which would invalidate the test. 34 C.F.R. § 300.160(b)(2). Under Section 504, the 504 team determines which students will receive which accommodations. Under IDEA, the IEP team performs that function. The PARCC policy conflicts with these requirements.

While it is essential for ensuring that the use of the non-standardized accommodation does not invalidate the student's assessment, the student's access to such accommodation is essential to his/her being able to demonstrate his/her knowledge and skills. The obligation is upon the school and school district to ensure that the student's IEP and/or Section 504 Plan include such provision and that the instruction is, in fact, provided in the classroom and the IEP and/or Section 504 plan are effectively implemented.

While PARCC has eliminated the use of new and undefined terms that would have unfairly discriminated against certain students with disabilities, it has provided guidance to IEP and 504 teams via Proposed Decision-Making Guidance for IEP or 504 teams by type of accommodation and furthermore has created a new category within Accommodations entitled 'special access accommodations for students with disabilities.'

CCD believes this blatantly discriminates against certain students with disabilities whose disability may or may not meet the guidelines provided but whose disability may still qualify them for one or more of the accommodations included in this new category. Since all students eligible under the IDEA must have a disability, these distinctions seem unwarranted.

The proposed manual provides specific "conditions" that students must meet in order to receive the needed accommodation. As previously stated, a student with a disability who is eligible under IDEA and/or Section 504 cannot have his/her right to participate meaningfully in an assessment provided to all other students conditioned upon actions of the student's IEP or

504 team. By limiting or eliminating a student's right to participate meaningfully and demonstrate his/her knowledge and skills of the Common Core Standards—as all other students—would deprive the student of comparable benefits and services under 34 C.F.R. §104.4. While we don't disagree with the goal to ensure access to research-based instruction in English Language Arts and math, a student's rights under IDEA, 504 and the ADA cannot be limited by such a requirement.

To put it in its most simple terms, to comply with Section 504 and the IDEA, PARCC accommodation policies cannot put any restrictions, limitations or qualifications on *who* is eligible to receive accommodations nor should PARCC create a subcategory of accommodations such as 'special access accommodations' with special guidance to IEP and 504 teams that creates such limits. By so restrictively limiting the access to certain special access accommodations (read-aloud, calculators, scribe etc.), PARCC fails to eliminate the barriers for a much wider range of students whose disabilities—however severe—impede them from fully accessing the tests and demonstrating their knowledge and skills.

In conclusion, the CCD appreciates the opportunity to comment on the Accommodations Manual. As such, we would be happy to meet to discuss our recommendations. CCD urges PARCC to continue to work with our community to assure the final Accommodations Manual and its tenets fully include UD principles to the maximum extent possible as well as adhere to requirements in the IDEA, Section 504, and the ADA.

Sincerely,

ACCSES

Advocacy Institute

American Foundation for the Blind

Association for Assistive Technology Act Programs (ATAP)

Association of University Centers on Disability

Autism National Committee

Conference of Educational Administrators of Schools and Programs for the Deaf

Council for Exceptional Children

Council of Parent Attorneys and Advocates

Disability Rights Education & Defense Fund

Easter Seals

Higher Education Consortium for Special Education

Learning Disabilities Association of America

National Association of Councils on Developmental Disabilities

National Association of State Directors of Special Education

National Center for Learning Disabilities

The National Council on Independent Living

National Disability Rights Network

RESNA

School Social Work Association of America

Teacher Education Division, Council for Exceptional Children

The Arc

United Cerebral Palsy

The Consortium for Citizens with Disabilities is a coalition of over 100 national consumer, advocacy, provider and professional organizations headquartered in Washington, D.C. Since 1973, the CCD has advocated on behalf of people of all ages with disabilities and their families. CCD works to achieve federal legislation and regulations that assure that the 54 million children and adults with disabilities are fully integrated into the mainstream of society.

See CCD's website for more information on ESEA and students with disabilities.

www.c-c-d.org

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