



## Commemorating 40 Years Of Disability Advocacy 1973-2013

October 7, 2013

Monique M. Chism  
U.S. Department of Education  
400 Maryland Avenue, SW Room 3W224  
Washington, DC 20202-4537

Re: Docket ID ED-2012-OESE-0018

Dear Ms. Chism:

The Consortium for Citizens with Disabilities (CCD) Education Taskforce commends the Department of Education for issuing the NPRM to formally end the use of the Alternate Assessment on Modified Academic Achievement Standards (AA-MAS) for accountability purposes under the Elementary and Secondary Education Act. This regulation, known commonly as the 2% Rule has been of significant concern to CCD members since it was first proposed. CCD applauds ED for reemphasizing “the importance of holding all students, including students with disabilities, to high standards.”

CCD is a coalition of more than 100 organizations speaking on behalf of our nation's children and youth with disabilities, representing our nation's six million school-age students with disabilities eligible for services under the Individuals with Disabilities Education Act (IDEA) and over 500,000 students with disabilities eligible for accommodations under Section 504 of the Rehabilitation Act.

We appreciate the Department of Education's (ED) actions to move away from the AA-MAS, including:

- Limiting the funding to support assessments aligned to the Common Core State Standards to a general assessment designed to assess virtually all students, including students with disabilities, and an alternate assessment designed for students with the most significant cognitive disabilities.
- Prohibiting states that received Race to the Top funding from using an AA-MAS.
- Requiring states that have received an ESEA flexibility waiver to phase out their use of an AA-MAS by the 2014-2015 school year.

This NPRM is the last step to formally rescinding the use of the AA-MAS. While only 16 States developed and administered an AA-MAS authorized by the final regulation in April 2007 at §200.1, many of these states have historically administered the AA-MAS to significantly more students with disabilities. In 2011-2012, more than 400,000 students with disabilities were assessed using an AA-MAS.<sup>1</sup>

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<sup>1</sup> <http://www.advocacyinstitute.org/ESEA/AA-MAS.state.status.pdf>

A recent article by Todd Grindal, Laura Schifter and Thomas Hehir demonstrates the issues with the 2% Rule:

Since 2007, the U.S. Department of Education (ED) has permitted school districts to hide the performance of up to two percent of students (or approximately 20% of students with disabilities) by allowing students with disabilities to be measured using substantially less challenging assessments. This provision, referred to by education policy wonks as the "2% rule" encourages inappropriate referrals to special education, paints an inaccurate picture of school performance, and, worst of all, reinforces stereotypes that students with disabilities cannot succeed in school.<sup>2</sup>

As Secretary Duncan stated before the American Association of People with Disabilities in March of 2011 -- "the 2 percent rule obscures an accurate portrait of the academic needs of America's students with disabilities." Accordingly, the undersigned organizations of CCD support the proposed regulation to end the use of the AA-MAS for ESEA accountability purposes.

Sincerely,  
Association of Assistive Technology Act Programs  
Association of University Centers on Disabilities  
Autism National Committee  
Council for Exceptional Children  
Council for Learning Disabilities  
Council of Parent Attorneys and Advocates, Inc.  
Easter Seals  
National Center for Learning Disabilities  
National Disability Rights Network  
National Down Syndrome Congress  
National Down Syndrome Society  
National PTA  
School Social Work Association of America  
The Advocacy Institute  
The Arc of the United States

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. For more information, please contact:

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<sup>2</sup> [http://www.huffingtonpost.com/todd-grindal/closing-the-lowexpectatio\\_b\\_3883527.html](http://www.huffingtonpost.com/todd-grindal/closing-the-lowexpectatio_b_3883527.html)