

Texas Education Agency

Comments on the Title III Notice of Proposed Interpretations Submitted June 2, 2008

The Texas Education Agency (TEA) respectfully submits the following comments regarding the Title III Notice of Proposed Interpretations released on May 2, 2008.

Overall Comments:

The TEA is concerned with some of the proposed interpretations that would require large-scale, costly changes to state and local practices related to program implementation, assessment, and accountability. The timelines for making the changes proposed are not mentioned in the interpretations. In addition to considerable cost and timeline implications, these large-scale changes would significantly disrupt the stability and longitudinal coherence of the Annual Measurable Achievement Objectives (AMAOs) which have been successfully implemented over the last five years and have resulted in substantial improvement in both English language progress and attainment in our state. In general, the TEA would like for the USDE to more comprehensively consider the additional burden and cost that some of the proposed changes would place on states and local school districts. Our school districts have strongly expressed the importance of program stability and the need to avoid "moving targets" as two critical components that are necessary for them to implement effectively (and generate local support for and commitment to) systems and strategies that will improve student performance. To move forward with such significant changes to the AMAOs after local school districts have been implementing them consistently for five years would disrupt and detract from the progress they have made to date. The TEA also would like to emphasize the importance of preserving the state's role in determining how best to implement federal statutory requirements to meet the needs of the state's public education system, student population and local education agencies (LEAs).

Specific Comments:

Proposed Interpretation #2 - Use of Annual English Language Proficiency (ELP) Assessment Scores for AMAOs 1 and 2

The USDE's proposed interpretation is quite narrow and would require all states that have not ascribed to this narrow interpretation to change current composite score structures, student performance expectations, and accountability targets for AMAO 2 so that students reach a proficient level of performance in each and every domain of English in order to be considered as reaching overall "attainment" on the English language proficiency assessment. Depending on the state's method of using composite scores to measure AMAO 1 progress, changes may need to be made to student expectations and accountability targets for this AMAO as well. The USDE's proposed interpretation allows for students to show progress in language proficiency overall even if they have not made progress in all of the domains, but does not allow for students to show attainment of language proficiency unless attainment has been reached in each domain. Under Texas' ELP assessment, the result will be that a student moving from the advanced level to the advanced high level (making progress) in three of the four domains may not be able to be considered advanced high (attainment) until all domains are advanced high. Therefore, changes to student expectations and accountability targets for both AMAO 1 and AMAO 2 would be required.

The TEA respectfully requests that states be permitted to continue to implement the approaches for which they have been approved under the current law unless the law is changed to reflect this interpretation. This will allow states more stability and continuity to measure improvements on their current systems over a reasonable period of time. Imposing this type of change would mean starting over in year-to-year comparisons. At this late stage in the implementation of the law, the TEA sees more merit in stability and permitting states to continue to do what has been approved under the current statute than in reinterpreting what is by law permissible. States would need sufficient notice and lead time to implement changes of this scope. A timeline for implementation would need to be included in the reauthorization of the law.

Proposed Interpretation # 4 - Exclusion of LEP Students “Without Two Data Points” From AMAO 1

The TEA finds this proposed interpretation problematic for a number of reasons. Most importantly, the TEA believes it is unreasonable to hold LEAs accountable for the progress of students who have not been in the U.S. long enough to participate in two administrations of the assessment when, by definition, progress involves a continuous and connected sequence of correlated events over time. To require LEAs to create an arbitrary initial data point by using local assessments at the time of such students' enrollment or to require states to otherwise determine a way to create two data points for showing progress regardless of how long such students have had to make progress in learning English is illogical and would confound the standardization and meaningfulness of the results, leading to invalid and unreliable assessment and accountability practices. Secondly, the references in the proposed interpretation to the possible use of additional criteria are too vague. The references need to be clarified so that states understand the intent. Finally, this change in interpretation would necessitate that states rework progress target definitions and data reporting, which would require additional costs and resources without the expectation that test results would be more reliable or meaningful. For these reasons, the TEA strongly disagrees with this proposed interpretation.

Proposed Interpretation #5 - Attainment of English Language Proficiency and “Exiting” the LEP Subgroup

The TEA does not disagree with USDE's new interpretation that students should not be considered proficient in English until they are proficient on the state's ELP assessment and meet any other criteria used by the state to determine that a student can exit language instruction educational programs and no longer be classified as LEP. Texas state law requires that local school district language proficiency assessment committees convene and review multiple criteria, including teacher input on classroom performance, to determine whether a student is ready to be exited from a special language program. The TEA is concerned that this new interpretation of statute would result in the need to change state law and/or rules governing local committee decisions on exiting of LEP students. In order for AMAO 2 calculations to include all state exiting criteria, TEA would need to implement a new data collection process and LEAs would have to report all local exiting decisions to the state much earlier than they are normally reported. There would be significant additional costs involved at both the state and local levels. The TEA believes that this type of change should be made through reauthorization of the law. States would need sufficient notice and lead time to implement changes of this scope. A timeline for implementation would need to be included in the reauthorization of the law.