

2004 Adequate Yearly Progress APPEALS GUIDELINES

AYP appeals will generally request a review of one of the measures used to determine the AYP status: Performance, Participation and the Other Measure.

General Guidelines Related to All Appeals:

Appeals are only considered for the district or campuses specifically stated in the letter, even if circumstances appealed would result in a different AYP status for other campuses (or the district) if granted. Texas Education Agency (TEA) staff will not make assumptions about district intent to appeal other campuses (or the district).

TEA staff will not contact school districts for additional information if the documentation provided is not sufficient. The appeal will be evaluated on the basis of information provided in the appeal letter.

Decision Guidelines for Performance Appeals:

Appeal of the Federal 1% Cap:

State Developed Alternative Assessment (SDAA) is an assessment that measures the academic progress of students receiving special education services enrolled in Grades 3 - 8 for whom Texas Assessment of Knowledge and Skills (TAKS), even with allowable accommodations, is not an appropriate measure of academic progress. State law specifies that the admission, review, and dismissal (ARD) committee determines the level of performance considered to be satisfactory on the SDAA. In the ARD training guidelines provided by TEA to districts, ARD committees are expected to promote high expectations based on the goals and objectives documented in the student's Individual Education Plan (IEP) and take the student's strengths, needs, instruction, and accommodations into consideration. The instructional decisions made by the ARD committee should be based on the Texas Essential Knowledge and Skills (TEKS) and will guide assessment decisions, including setting appropriate achievement-level expectations.

Appeals of the results of the application of the Federal 1% cap will be recommended to be granted for each of the following reasons, given that sufficient documentation is provided:

- Appeal of the application of the 1% cap to the campus or district due to special arrangement or cluster arrangements with surrounding campuses or school district. A recommendation for granting this type of appeal will be based on review of the percent of special education student population, appropriate documentation of the existence of a cluster arrangement, and the Performance-Based Monitoring district identification.

Justification: USDE guidelines allow states to provide flexibility for campuses serving a high percentage of special education students due to these types of arrangements. This circumstance will be handled through the appeals process for 2004 and 2005. During 2005 an application process will be developed for districts to request an exception to the Federal 1% cap for the district or selected campuses.

- Appeal of students identified as exceeding the 1% cap will be recommended to be granted based on the submission of the AYP Appeal Template or similar documentation that students were tested according to state guidelines.

2004 AYP APPEALS GUIDELINES

District appeals from school districts currently under review for special education performance or program effectiveness by the Performance-Based Monitoring System based on the following two criteria will be denied:

- Performance-Based Monitoring Analysis System (PBMAS) Performance Level 3 on 4 or more indicators
- PBMAS Performance Level 3 on any one of the following individual indicators: TAKS Participation, SDAA Participation and ARD Exemptions.

Justification: For special education students, the state policies and procedures related to assessment decision making were provided to districts in early fall 2003 in the TEA publication titled *Admission, Review, and Dismissal (ARD) Committee Decision-making Process for the Texas Assessment Program*. In October 2003, in the absence of final USDE regulations regarding inclusion of test results for students with disabilities in AYP, TEA sent a letter to all districts stating that it is critically important that local school districts follow the state policies and procedures to ensure that appropriate assessments are selected and administered to students with disabilities. In order to grant the appeal, the superintendent must certify that local documentation is available to indicate that each student identified as exceeding the 1% cap was tested appropriately under the state guidelines.

The PBMAS indicators are used to evaluate student performance and program effectiveness for special programs and to establish school district performance levels to assist in the identification of districts for further intervention or monitoring. The TAKS Participation, SDAA Participation and ARD Exemptions indicators in the PBMAS system identify districts with high percentages of special education students taking SDAA only or ARD-exempt.

Appeals based on the Federal 1% cap from districts that have been identified for monitoring under PBM are denied, with the following exceptions:

- (1) the district serves a residential facility for students with disabilities
- (2) the district is identified for the lowest level of PBM intervention and meets both of the following conditions:
 - showed a decrease from the prior year in percentage of students tested on SDAA only and ARD exempt
 - met the highest PBMAS standard for one or more of the three assessment indicators
- (3) the district is identified for PBM intervention above the lowest level but meets all of the following conditions
 - below state average in percentage of students tested on SDAA only
 - showed a decrease from the prior year in percentage of students tested on SDAA only
 - no ARD exempt students
 - met the highest PBMAS standard for all three of the assessment indicators

The AYP Guide, which is adopted as administrative rule, governs the appeals process. State legislation passed in 2003 required TEA to develop a new program monitoring system and the Performance-Based Monitoring System was under development at the time the 2004 AYP Guide was published. Consequently, the relationship between AYP and PBM could not be described except in general terms. In 2005 a stronger link

2004 AYP APPEALS GUIDELINES

between PBM and AYP appeals will be defined, including denial of campus appeals as well as district appeals from PBM districts. This relationship will be described in the 2005 AYP Guide and govern the 2005 AYP appeals process.

- Appeal of SDAA Baseline students will be recommended to be granted based on the submission of the AYP Appeal Template or similar documentation that students are baseline testers.

Justification: The SDAA test administration policies and guidelines for 2003-04 do not allow ARD committees to establish growth expectations for students who are taking the SDAA test for the first time. Students who take the baseline administration of the SDAA are counted as failers under the USDE guidelines, even though the state assessment policies do not require that these students' SDAA results be evaluated in the baseline year. In order to grant the appeal, the superintendent must certify that local documentation is available to indicate that each student identified as a baseline tester was tested appropriately under the state guidelines. A new version of the SDAA (SDAAll) will be administered statewide for the first time in 2005. The SDAAll is more closely aligned with TAKS and extends the test to grades 9 and 10. The 2005 ARD assessment procedures and test coordinators manual instruct districts to establish growth expectations for students who are taking the SDAAll test for the first time, and to code the ARD expectations on the test answer document. Therefore, beginning in 2005 ARD expectations will be established for all students tested on SDAAll, including first-time testers.

Appeal of the Mathematics LEP Exempt students tested:

State assessment policy allows districts to exempt from mathematics testing unschooled recent immigrant students with limited English proficiency (LEP). In March 2004, TEA sent districts instructions for testing exempt LEP students with released TAKS mathematics tests using linguistic accommodations for purposes of AYP. Because released tests were used, students were considered "not proficient" for purposes of AYP performance calculations.

Appeal of mathematics performance will be recommended to be granted based on the submission of the AYP Appeal Template or similar documentation that LEP students were exempt from the mathematics assessment by the Language Proficiency Committee (LPAC).

Justification: For students with limited English proficiency, state policies and procedures are detailed in the TEA publication titled *LPAC Decision-Making Process for the Texas Assessment Program*, which outlines procedures for districts to follow to ensure that LEP students are assessed appropriately and at the earliest practical date. This manual was provided to districts in early fall 2003. In order to grant the appeal, the superintendent must certify that local documentation is available to indicate that the students identified were appropriately exempted from the TAKS mathematics test by the LPAC committee following state exemption guidelines and that the students were tested with a released TAKS test with linguistic accommodations.

Beginning in 2005, LEP students who are exempt from the TAKS mathematics test under state policy will be tested with linguistic accommodations during the regular TAKS testing on the secured test. The tests will be scored by the testing contractor and results will be included in the AYP performance calculation.

2004 AYP APPEALS GUIDELINES

Appeal of the Performance Improvement/Safe Harbor provision based on confidence intervals

- A district or campus that does not meet AYP performance standards due to not meeting the “safe harbor” provision may appeal. The districts and campuses must have shown improvement on the Graduation Rate or Attendance Rate measure for the student group in question, as required under performance improvement. A recommendation to grant this appeal will be based on the recalculation of the improvement measure resulting in a change in the AYP status.

Justification: USDE allows the use of confidence intervals in making AYP determinations for small districts and schools.

Decision Guidelines for Participation Appeals:

Participation appeals will be recommended to be granted for each of the following reasons, given that sufficient documentation is provided:

- Absences due to medical emergencies with documentation provided of an excused absence for medical reasons.

Justification: USDE guidelines allow states to exclude students from the participation measure if they were absent during the testing period due to a medical emergency.

- Appeals based on other reasons for absence.

Justification: In 2003, appeals were approved if districts provided proper documentation of reason for absence in cases where less than ten students were absent during the testing period. In 2004, appeals for reasons other than medical emergencies will only be approved if proper documentation is provided and there are fewer than five students absent during the testing period.

- Appeals based on coding errors.

Justification: The test administration policies for the state assessment program do not allow districts to correct coding errors on the test answer documents after the documents have been submitted for scoring. The most common coding errors are students coded as absent who withdrew or transferred prior to testing, and special education students coded as absent on the TAKS answer document who were tested on SDAA or LDAA. If districts submit the proper documentation, appeals will be granted to prevent clerical errors from affecting AYP status.

- LEP students exempt from the mathematics assessment. Documentation of a valid exemption is acceptable given that testing these students was optional.

Justification: On March 3, 2004, TEA informed districts that they will have the option of administering a released TAKS mathematics test with appropriate linguistic accommodations as an alternative assessment for students in Grades 3–8 and 10 who qualify for a LEP exemption from the live TAKS mathematics test. On March 18, 2004, TEA provided additional information about answer document coding and alternative mathematics assessment procedures regarding the option to administer an on-grade released TAKS mathematics test with appropriate linguistic accommodations. Since

2004 AYP APPEALS GUIDELINES

both letters stated that the use of the released TAKS mathematics test was optional, the superintendent must certify that local documentation is available to indicate that the students identified were appropriately exempted from the TAKS mathematics test by the LPAC committee following state exemption guidelines.

- Locally Developed Alternate Assessment (LDAA) miscoded documents indicated no assessment taken. Documentation must include evidence that the student was tested. Failure to assess is not grounds for appeal because state policy requires testing of ARD exempt students.

Justification: The collection of the LDAA data on the TAKS and SDAA answer documents was implemented for the first time for the spring 2004 test administrations. In order to grant the appeal, the superintendent must provide documentation which shows that the students were appropriately tested on an LDAA.

Decision Guidelines for Appeals on the Other Measure:

AYP appeal for review of the Other measure (either Attendance or Graduation Rate) is recommended to be granted under the following conditions:

- The appeal requests review of current year Attendance information and it does affect the AYP status of the campus or district.

Justification: The prior year attendance data were used for the 2004 AYP measure since the current year attendance data were not available when the preliminary AYP data were provided to districts. Since current year attendance data are available at the time of appeals, the current year data will be substituted for the prior year data to ensure that the appeal decision is based on the most current data available. If attendance measures are reevaluated using 2003-04 attendance data, all measures based on attendance will be reevaluated. A district or campus cannot meet some 2004 AYP standards using 2002-03 Attendance Rates and meet other standards using 2003-04 Attendance Rates.

- The appeal requests the exclusion of special education students with 5-year IEP plans from the graduation rate calculation and the change in the rate results in a change in the AYP status.

Justification: USDE approved exclusion of special education students with 5 year (or longer) IEP from the graduation rate calculation. Texas does not collect information related to student IEPs and can only implement this provision through the appeals process. Students must continue to be enrolled in school and districts must provide documentation from the IEP.

- The appeal requests the exclusion of recent immigrant students (students first year in a US school) from the graduation rate calculation and the change in the rate results in a change in the AYP status.

Justification: USDE approved exclusion of recent immigrant LEP students from the graduation rate calculation. This condition is not included in the completion rate methodology and the exclusion can only be implemented through the appeals process.

2004 AYP APPEALS GUIDELINES

- An Alternative Education campus requests the exclusion of students who received a General Educational Development (GED) certificate from the graduation rate calculation and the recalculation of the graduation rate results in a change in the AYP status.
- An Alternative Education campus requests the exclusion of continuing students from the graduation rate calculation and the recalculation of the graduation rate results in a change in the AYP status.
- An Alternative Education campus requests the exclusion of continuing students transferred to the campus in the fall following their expected graduation date. These are students who enter a campus in the fall of the 2003-04 school year after their classmates in the Class of 2003 have completed school. The exclusion of these students from the graduation rate calculation must result in a change in the AYP status.

Justification: the completion/student status rate is a longitudinal indicator that tracks individual students from the time they enter grade 9 to the fall following their expected graduation date. Students are classified at the end of this period as 4-year graduates, continuing students, GED recipients, or dropouts – the four components add to 100 percent. Including continuing students and GED recipients in the calculations works to the disadvantage of alternative education campuses. The USDE National Center for Education Statistics includes only graduates and dropouts in their estimated completion rate. Accuracy of leaver data submitted to TEA by the district is a factor considered in evaluation of the merits of Graduation Rate appeals.