



# TEXAS EDUCATION AGENCY

1701 North Congress Ave. ★ Austin, Texas 78701-1494 ★ 512/463-9734 ★ FAX: 512/463-9838 ★ <http://www.tea.state.tx.us>

April 1, 2004

Honorable Raymond Simon, Assistant Secretary  
Office of Elementary and Secondary Education  
United States Department Education (USDE)  
400 Maryland Avenue, SW  
Washington, DC 20202

Dear Assistant Secretary Simon:

Attached are proposals related to 2004 calculation of Adequate Yearly Progress (AYP) for Texas school districts, campuses, and the state. The proposals include a request for a timeline extension and a request for exception to the 1% cap on inclusion of results from alternative assessments for students with disabilities in AYP. There are several factors that form the basis for these requests. They include the following:

- (1) Not penalizing students for lack of advance notice concerning federal policy – One of the reasons the Texas accountability system has been so effective is that it gave educators sufficient time to make the changes in instruction that were needed for students to meet more rigorous assessment standards. A federal system that imposes different expectations regarding assessment standards from those established by the state with little advance notice penalizes students because educators do not have the opportunity to determine and implement the instructional approaches that will prepare students for the new standards.
- (2) Not penalizing districts and campuses for complying with state policy – The Texas Legislature established the requirements for the development and implementation of the state's current assessment and accountability systems. Laws related to assessment, accreditation, performance reporting, and the accountability system were brought together in the Texas Education Code (TEC) by the Legislature in 1992-93. The next regular session of the Texas Legislature will convene in January 2005.
- (3) Allowing sufficient time to amend current state statute and policies – Under No Child Left Behind (NCLB) federal regulations, states that failed to assess students in grades 3-8 and one high school grade in reading and mathematics were given until 2005-06 to meet those testing requirements. Texas has had a comprehensive assessment program for many years; however, certain components of the current Texas assessment program may not completely align with the requirements of NCLB as set out in the implementing regulations. Texas

should at least be given the same amount of time to modify its current assessment system as other states were granted to create assessment systems.

The proposals attached to this correspondence are organized into five sections. Attachment 1 is a request for a timeline extension which would then allow an orderly transition from current state law and policies to assessment policies that are more congruent with NCLB. Transition plans for these policy shifts for students with disabilities and limited English proficient students are outlined in subsequent attachments.

Attachment 2 is a request for exception to the 1% cap for students with disabilities tested on alternate assessments, again to allow an orderly transition from current state law and policies to assessment policies that are more congruent with NCLB

Attachment 3 is a transition plan for assessing students with disabilities tested on alternative assessments. This proposal updates the one-year transition plan contained in the Texas AYP Plan approved in July 2003 and begins incorporating the federal regulations published on December 9, 2003.

Attachment 4 is a proposal for inclusion of test results in AYP for recent immigrant students with limited English proficiency (LEP) tested on alternative assessments. This proposal updates the one-year transition plan contained in the Texas AYP Plan approved in July 2003. The proposal incorporates additional flexibility for LEP students described in the February 23, 2004, letter from Secretary Paige.

Attachment 5 contains additional proposals for changes to the existing Texas AYP Plan.

The Texas Legislature will be in session January through May 2005. Proposed changes to the state assessment system must be submitted and approved by the legislature prior to implementation. In order to be able to make recommendations to the legislature for changes to the state assessment system in response to NCLB and implementing regulations, changes will need to be identified this summer. Therefore, it is requested that USDE staff schedule and complete a review of the current Texas assessment system no later than May 2004. The results of this review would serve as the basis for the Texas Education Agency (TEA) to make specific recommendations to the Texas Legislature concerning changes in the Texas assessment system to address NCLB requirements.

Once agreement is reached on the changes to the AYP Workbook proposed in this correspondence, the TEA will formally amend the workbook and submit it to the USDE for final approval.

If you have any questions concerning the attached proposals, please contact Criss Cloudt, associate commissioner for accountability and data quality, at 512-463-9701.

Sincerely,



Shirley Neeley  
Commissioner of Education

Enclosures:

- Attachment 1: Request for Timeline Extension
- Attachment 2: Request for Exception to 1% Cap
- Attachment 3: Transition Plan for Students with Disabilities Tested on Alternative Assessments
- Attachment 4: Transition Plan for Students with Limited English Proficiency Tested on Alternative Assessments
- Attachment 5: Additional Proposals for Changes to the Texas AYP Plan

cc: Criss Cloudt, Associate Commissioner, Accountability and Data Quality  
Susan Barnes, Associate Commissioner, Standards and Programs  
Gene Lenz, Deputy Associate Commissioner, Special Education  
Nancy Stevens, Director, Performance Reporting Division  
Lisa Chandler, Director, Student Assessment Division  
Cory Green, Director, NCLB Program Coordination  
Kerri Briggs, United States Department of Education (USDE)

## ATTACHMENT 1

### Request for Timeline Extension

The Texas Legislature established the requirements for the development and implementation of the state's current assessment and accountability systems, including the assessment of students with disabilities and students with limited English proficiency. The Texas Legislature has not had the opportunity to amend existing statutory requirements (See Excerpt A) to align the state assessment system with the requirements of the December 2003 federal regulations and other guidance provided by the United States Department of Education (USDE) for No Child Left Behind (NCLB) with regard to the assessment of students with disabilities and students with limited English proficiency. The next regular session of the Texas Legislature will convene in January 2005.

**Request for Timeline Extension** – Texas respectfully requests a timeline extension in accordance with the provisions of 34 Code of Federal Regulation (CFR) §200.5, Timelines for Assessments. This timeline extension would grant the State of Texas the same timeline extension granted to other states that are adding to or creating assessment systems. That is, under the NCLB federal regulations, states that failed to assess students in grades 3-8 and one high school grade in reading and mathematics were given until 2005-06 to meet those testing requirements. Texas has had a comprehensive assessment program for many years; however, certain components of the current Texas assessment program do not completely align with the requirements of NCLB. Texas should be given at least the same amount of time to align its current assessment statute and program with NCLB as other states were granted to create assessment systems.

The timeline extension would allow the Texas Legislature the opportunity to analyze the new assessment and accountability requirements of the NCLB pertaining to students with disabilities and students with limited English proficiency, and then determine appropriate changes in state statutes regarding assessment policies for all Texas students. This timeline extension would recognize Texas's obligation to continue implementing current state statutorily required assessment policies for at least the 2003-04 and 2004-05 school years. However, a number of state actions would also be taken to move Texas into closer compliance with all aspects of NCLB assessment and accountability policies prior to the next state legislative session in January 2005. These state actions are outlined in Attachments 3, 4 and 5.

The State of Texas endorses and supports the principles and values of NCLB. Texas public schools have consistently demonstrated that they believe that all children can learn. NCLB will provide the necessary impetus through both federal and state accountability measures for higher expectations for students with disabilities and students with limited English proficiency. The reason the Texas accountability system has been so effective is that it has consistently given educators sufficient time to make the changes in instruction needed for students to meet more rigorous assessment standards. Any system that imposes different expectations regarding assessment standards with little advance notice penalizes students because educators do not have the opportunity to determine and implement appropriate instruction to prepare students for these standards.

### Excerpt A

#### Texas Education Code - Excerpt of Chapter 39

##### § 39.023. ADOPTION AND ADMINISTRATION OF INSTRUMENTS (Excerpt).

- (b) The agency shall develop or adopt appropriate criterion-referenced assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, who receives modified instruction in the essential knowledge and skills identified under Section 28.002 for the assessed subject but for whom an assessment instrument adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee. The assessment instruments required under this subsection must assess essential knowledge and skills and growth in

the subjects of reading, mathematics, and writing. A student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).

- (l) The State Board of Education shall adopt rules for the administration of the assessment instruments adopted under Subsection (a) in Spanish to students in grades three through six who are of limited English proficiency, as defined by Section 29.052, whose primary language is Spanish, and who are not otherwise exempt from the administration of an assessment instrument under Section 39.027(a)(3) or (4). Each student of limited English proficiency whose primary language is Spanish, other than a student to whom Subsection (b) applies, may be assessed using assessment instruments in Spanish under this subsection for up to three years or assessment instruments in English under Subsection (a). The language proficiency assessment committee established under Section 29.063 shall determine which students are administered assessment instruments in Spanish under this subsection.
- (m) The commissioner by rule shall develop procedures under which the language proficiency assessment committee established under Section 29.063 shall determine which students are exempt from the administration of the assessment instruments under Section 39.027(a)(3) and (4). The rules adopted under this subsection shall ensure that the language proficiency assessment committee provides that the exempted students are administered the assessment instruments under Subsections (a) and (c) at the earliest practical date.

**§ 39.024. SATISFACTORY PERFORMANCE (Excerpt).**

- (a) Except as otherwise provided by this subsection, the State Board of Education shall determine the level of performance considered to be satisfactory on the assessment instruments. The admission, review, and dismissal committee of a student being assessed under Section 39.023(b) shall determine the level of performance considered to be satisfactory on the assessment instruments administered to that student in accordance with criteria established by agency rule.
- (d) The agency shall develop and make available teacher training materials and other teacher training resources to assist teachers in enabling students of limited English proficiency to meet state performance expectations. The teacher training resources shall be designed to support intensive, individualized, and accelerated instructional programs developed by school districts for students of limited English proficiency.

**§ 39.027[0]. EXEMPTION. (Excerpt).**

- (a) A student may be exempted from the administration of an assessment instrument under:
  - (1) Section 39.023(a) or (b) if the student is eligible for a special education program under Section 29.003 and the student's individualized education program does not include instruction in the essential knowledge and skills under Section 28.002 at any grade level;
  - (2) Section 39.023(c) or (d) if the student is eligible for a special education program under Section 29.003 and:
    - (A) the student's individualized education program does not include instruction in the essential knowledge and skills under Section 28.002 at any grade level; or
    - (B) the assessment instrument, even with allowable modifications, would not provide an appropriate measure of the student's achievement as determined by the student's admission, review, and dismissal committee;
  - (3) Section 39.023(a) or (l) for a period of up to one year after initial enrollment in a school in the United States if the student is of limited English proficiency, as defined by Section 29.052, and has not demonstrated proficiency in English as determined by the assessment system under Subsection (e); or

(4) Section 39.023(a) or (l) for a period of up to two years in addition to the exemption period authorized by Subdivision (3) if the student has received an exemption under Subdivision (3) and:

(A) is a recent unschooled immigrant; or

(B) is in a grade for which no assessment instrument in the primary language of the student is available.

## ATTACHMENT 2

### Request for an Exception to 1% Cap for Students with Disabilities Tested on Alternative Assessments

#### **Background:**

The statewide assessment program in Texas currently includes the Texas Assessment of Knowledge and Skills (TAKS), and the State-Development Alternative Assessment (SDAA). Each admission, review, and dismissal (ARD) committee has three options for testing students receiving special education services. As part of implementing IDEA, the individual student's admission, review and dismissal (ARD) committee (IEP team) may choose the TAKS, SDAA, or a Locally Determined Alternate Assessment (LDAA).

As mandated by the 76<sup>th</sup> Texas Legislature in 1999, the TAKS was administered beginning in the 2002-2003 school year. The TAKS measures the statewide curriculum, called the Texas Essential Knowledge and Skills (TEKS), in reading at Grades 3-9; in writing at Grades 4 and 7; in English Language Arts at Grades 10 and 11; in mathematics at Grades 3-11; in science at Grades 5, 10 and 11, and social studies at Grades 8, 10 and 11. The Spanish TAKS is administered at Grades 3 through 6. Satisfactory performance on the TAKS at Grade 11 is prerequisite to a high school diploma.

The SDAA assesses special education students in Grades 3-8 who are receiving instruction in the TEKS but for whom TAKS is an inappropriate measure of academic progress. This test assesses the areas of reading, writing, and mathematics. Students are assessed at their appropriate instructional level, as determined by their ARD committee, rather than at their assigned grade level. The SDAA is administered on the same schedule as TAKS and is designed to measure annual growth based on appropriate expectations for each student as decided by the student's ARD committee. The alternative assessment is designed in such a way as to bridge into TAKS and is a part of the state accountability system.

The latest addition to the Texas assessment program is the SDAA II, which is being field tested in 2003-2004 and will be administered in 2004-2005. This assessment will replace the SDAA. Development on the SDAA II began when Texas moved from using the Texas Assessment of Academic Skills (TAAS) to the TAKS. The SDAA II will be aligned more closely with the TAKS test.

#### **Rationale:**

While some states were building functional alternate assessments for a very small portion of the special education population, in 1997 the Texas Legislature directed the Texas Education Agency (TEA) to develop and administer an instructional level assessment – the State Developed Alternative Assessment (SDAA) — that would ensure that all but a small percentage of students with disabilities would be taught, and be required to demonstrate proficiency in, the State's curriculum. The small percentage of students who were not being taught in the state curriculum were to be assessed using an LDAA. It was very important to develop and administer the SDAA in a way that would provide instructionally relevant information to inform the IEP teams' instructional decision-making process. It was also important to fully understand what a student had learned and where the student was performing in the general curriculum, by design, and not chance. (See Excerpt B for state requirements for the SDAA.)

The Texas Legislature also wanted the SDAA to allow for more accommodations than the statewide test being used at the time, the TAAS or its successor, the TAKS. Many of the accommodations allowed on the SDAA would invalidate the results of the TAAS or TAKS. However, since the SDAA was constructed using the same process as the state assessment of that time (TAAS), it is a valid and reliable assessment instrument that allows a greater number of accommodations and still provides information upon which to make sound instructional decisions. The new assessment, the SDAA II, which is more closely aligned to TAKS while allowing for accommodations, has been developed and will be administered in 2004-2005.

The Texas Legislature was also interested in an assessment instrument that would complement the individual accountability provisions of the Individuals with Disabilities Act (IDEA Amendments of 1997) by allowing IEP teams to establish the passing standards and growth expectations for each student, while also providing for the results of the SDAA to be included in the State's accountability system for the

purposes of rating local districts and improving overall student achievement. (See Excerpt C for state requirements related to the student passing standard for SDAA).

The SDAA provides critical curriculum alignment with teaching and learning, while ensuring that students with disabilities receive due process by assessing the student's instructional level as determined by the student's IEP team. It is for these reasons that the percent of Texas students tested on an assessment other than the TAKS is considerably higher than the 1% cap. The SDAA was mandated by state statute, developed by the TEA, selected (when appropriate) by the student's IEP team in accordance with procedures under IDEA, and administered according to state statute and rule. School personnel and parents genuinely feel the SDAA is an appropriate assessment because it provides meaningful instructional information. Many states which initially developed alternative, functional alternate assessments are now searching for a middle assessment that bridges the gap between the regular state assessment and the functional alternate assessment. The SDAA bridges that gap and provides meaningful instructional information to inform teaching and learning.

The current Texas assessment program for students receiving special education services was not created based on an assumption that only 1% of students could be either assessed with the state's alternative assessment or assessed locally. Rather, it was created to ensure that the state assessments provide meaningful diagnostic information to inform instructional decision-making related to the teaching and learning of the state curriculum framework (the TEKS). State statute authorizing the state's alternative assessment for students with disabilities also specifies that a student's passing standard be set by the local individualized education program (IEP) team instead of being set by the state or the district. Under NCLB, one state standard must be set for 99% of all students (special education and non-special education).

Current state assessment policies specific to students with disabilities are intertwined with federal and state requirements relating to the IDEA and the IEP team decision-making process. In addition, students who meet IEP teams' expectations for growth are not considered failures under Texas assessment and accountability policies. Because of the differences between state and federal assessment and accountability requirements, Texas requests a performance and participation hold harmless exception for the 2003-2004 school year and an exception to the 1% percent cap for 2004-2005. This would allow Texas to include test results in the participation and performance measures based on state assessment policy, and transition into consistency of definitions of participation and proficiency in the testing program. The transition is also intended to prevent a procedural safeguard conflict as well as potential litigation due to the inconsistency between what is statutorily required by Texas and what is required by NCLB. We also request an exception for 2004-2005 so TEA may present all available options to the Texas Legislature. As stated in our Request for Timeline Extension, the Texas Legislature will need to address current state assessment policies when it next meets in regular session, January-May 2005. Thereafter, the Texas Legislative Leadership, TEA, and USDE will work collaboratively to determine future exception requests based on future state and federal assessment and accountability policies specific to students with disabilities.

The future of the SDAA will depend upon legislative review during the next regular session. However, two significant changes will occur during the transition period. First, a new SDAA II has been developed to be more in line with the TAKS. It will be administered for the first time during the 2004-05 school year. The significance of this revision means that Texas will be the first state to have an alternative/alternate assessment that assesses at the enrolled grade level standards and/or the student's instructional level, and also allows the TEA to establish future grade level standards gap closure measures. The second significant change happened during the last regular session of the Texas Legislature, part of which went into effect during the 2003-04 school year, with another part which goes into effect during the 2004-05 school year. These changes include amendments to sections of state statute that determine the criteria an IEP team considers when selecting an assessment (See Excerpt B) and when the TEA would conduct a review of a local school district for excessive numbers of students assessed with the SDAA (See Excerpt D for state requirements for special accreditation investigations).

**Requests:**

**Request for Hold Harmless for 2003-2004:** In 2003-04, approximately 300,000 IEP teams across Texas selected the assessment they determined would best measure each student's academic performance. These decisions were made based on extensive student-level information, and the requirements of state statute and procedures, while staying in compliance with the IDEA and implementing regulations. The December 9, 2003, publication date for the final regulations related to the 1% cap on alternative assessment makes it impossible to implement the changes that would be required to allow thousands of campuses and hundreds of school districts to meet adequate yearly progress (AYP) for the 2003-2004 school year. These are districts that were simply following current state assessment law and policy. See Table I in this attachment for a chart summarizing the testing status of students for the 2002-03 school year. Similar percentages of students are expected to be tested on alternative assessments consistent with current state testing policy. If the hold harmless policy is approved it will permit all SDAA and LDAA test takers to be counted as test participants for the AYP participation calculation. Additionally, students "meeting ARD committee expectations" would be counted as proficient in the performance calculation for AYP purposes.

**Request for Exception to 1% Cap for 2004-05 and 2005-06:** Texas respectfully requests an exception, in conjunction with the timeline extension, and in accordance with the provisions of 34 CFR §200.13, Adequate yearly progress in general; and specifically, 34 CFR §200.13 (c)(2), relating to an exception the TEA may request from the Secretary permitting Texas to exceed the 1% percent cap. Current state statutes require local school districts' IEP teams to individually select the state and/or local assessment(s) that would best measure a student's academic performance. In addition, when the IEP team selects a state or local assessment, the team also determines the passing standard matched to the instruction the student is receiving, based on the team's professional judgment of growth the student will make from one school year to the next.

Under this exception request, the total numbers of students permitted to be assessed with alternative assessments (SDAA II and LDAA) would be limited and significant reductions would be required by schools districts for the 2004-05 school year and the 2005-06 school year. For the 2004-05 school year, a cap limitation of 7% would be imposed for AYP purposes. For 2005-06 a cap limitation of 6% would be imposed. These cap limitations represent significant reductions from the current state alternative assessment percentages of 9% for reading (8% SDAA, 1% LDAA) and 8% for mathematics (7% SDAA, 1% LDAA). Table 2 provides 2002-03 data for Texas school districts and campuses showing the numbers currently exceeding a 7% cap and a 6% cap for alternative assessments for students with disabilities. A 7% cap will require that as many as 928 ISDs and 4,419 campuses reduce their alternative assessment percentages. A 6% cap will require that 1,009 ISDs and 4,997 campuses reduce their percentages. The imposition of these caps in the Texas assessment program for students with disabilities in advance of possible legislative changes in conjunction with the hold harmless for the 2003-04 school year – represents a significant effort on the part of state policy makers to adjust the Texas system to accommodate federal requirements. While it represents an ambitious effort for Texas school districts, it does avoid penalizing schools and districts for lack of advance notice concerning federal policy and allows time to amend current state statute and assessment policies. Table 3 illustrates the Request for Hold Harmless and the Request for Exception to the 1% Cap in table form.

**Excerpt B**

**Texas Education Code - Excerpt of Chapter 39**

**§ 39.023. ADOPTION AND ADMINISTRATION OF INSTRUMENTS (Excerpt)**

- (a) The agency shall adopt or develop appropriate criterion-referenced assessment instruments designed to assess essential knowledge and skills in reading, writing, mathematics, social studies, and science. All students, except students assessed under Subsection (b) or (l) or exempted under Section 39.027, shall be assessed in:

- (1) mathematics, annually in grades three through seven without the aid of technology and in grades eight through 11 with the aid of technology on any assessment instruments that include algebra;
  - (2) reading, annually in grades three through nine;
  - (3) writing, including spelling and grammar, in grades four and seven;
  - (4) English language arts, in grade 10;
  - (5) social studies, in grades eight and 10;
  - (6) science, in grades five, eight, and 10; and
  - (7) any other subject and grade required by federal law.
- (b) The agency shall develop or adopt appropriate criterion-referenced assessment instruments to be administered to each student in a special education program under Subchapter A, Chapter 29, who receives modified instruction in the essential knowledge and skills identified under Section 28.002 for the assessed subject but for whom an assessment instrument adopted under Subsection (a), even with allowable modifications, would not provide an appropriate measure of student achievement, as determined by the student's admission, review, and dismissal committee. The assessment instruments required under this subsection must assess essential knowledge and skills and growth in the subjects of reading, mathematics, and writing. A student's admission, review, and dismissal committee shall determine whether any allowable modification is necessary in administering to the student an assessment instrument required under this subsection. The assessment instruments required under this subsection shall be administered on the same schedule as the assessment instruments administered under Subsection (a).

#### **Excerpt C**

#### **Texas Education Code - Excerpt of Chapter 39**

#### **§ 39.024. SATISFACTORY PERFORMANCE (Excerpt)**

- (a) Except as otherwise provided by this subsection, the State Board of Education shall determine the level of performance considered to be satisfactory on the assessment instruments. The admission, review, and dismissal committee of a student being assessed under Section 39.023(b) shall determine the level of performance considered to be satisfactory on the assessment instruments administered to that student in accordance with criteria established by agency rule.

#### **Excerpt D**

#### **Texas Education Code - Excerpt of Chapter 39**

#### **§ 39.075. SPECIAL ACCREDITATION INVESTIGATIONS (Excerpt)**

- (a) The commissioner shall authorize special accreditation investigations to be conducted:
- (7) when excessive numbers of students in special education programs under Subchapter A, Chapter 29, are assessed through assessment instruments developed or adopted under Section 39.023(b);

**TABLE I**  
**Testing Status of Students for the 2002-03 School Year**  
**Grades 3-8 and 10**

ALL STUDENTS	Reading		Mathematics	
	Number of Students	Percent of All Students	Number of Students	Percent of All Students
TAKS	1,932,135	88%	1,953,287	89%
SDAA only	167,333	8%	153,121	7%
LDAA only (ARD exempt)	24,084	1%	25,131	1%
Absent/Other	40,567	2%	42,381	2%
LEP exempt	38,969	2%	30,450	1%
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All Students Tested	2,203,088		2,204,370	
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SPECIAL EDUCATION STUDENTS	Number of Students	Percent of Special Ed Students	Number of Students	Percent of Special Ed Students
TAKS	90,812	31%	104,384	36%
SDAA only	167,333	58%	153,121	53%
LDAA only (ARD exempt)	23,763	8%	24,737	9%
Absent/Other	7,824	3%	8,119	3%
LEP exempt	1,205	0%	297	0%
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All Students Tested	290,937		290,658	

**TABLE 2**  
**2002-2003 Percent of Students Tested on SDAA and LDAA**  
**Grades 3-8 and 10**

	Reading				Mathematics			
	Number of Districts		Number of Campuses		Number of Districts		Number of Campuses	
> 10 %	573	46%	2,760	40%	495	40%	2,368	34%
> 9 %	698	56%	3,261	47%	612	49%	2,883	41%
> 8 %	814	66%	3,829	55%	737	60%	3,410	49%
> 7 %	928	75%	4,419	63%	846	68%	4,046	58%
> 6 %	1,009	82%	4,997	72%	956	77%	4,609	66%
All	1,237	100%	6,968	100%	1,237	100%	6,968	100%

**TABLE 3**  
**Request for Hold Harmless and Request for Exception to the 1% Cap**

**Reading**

	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
State Goal								
TAKS	91.0%		93.0%	94.0%				
SDAA	8.0%		6.0%	5.5%				
LDAA	1.0%		1.0%	.5%				
AYP Cap	N/A	Hold Harmless	7.0%	6.0%	To be determined in collaboration with the Texas Legislative Leadership and the USDE			

**Mathematics**

	2002-03	2003-04	2004-05	2005-06	2006-07	2007-08	2008-09	2009-10
State Goal								
TAKS	92.0%		93.0%	94.0%				
SDAA	7.0%		6.0%	5.5%				
LDAA	1.0%		1.0%	.5%				
AYP Cap	N/A	Hold Harmless	7.0%	6.0%	To be determined in collaboration with the Texas Legislative Leadership and the USDE			

## ATTACHMENT 3

### Transition Plan for Students with Disabilities Tested on Alternative Assessments

The following proposal was developed to responsibly transition Texas from current state policy and state practice related to instruction and assessment of students with disabilities to more challenging curriculum standards and more rigorous assessment expectations consistent with the values set forth in *No Child Left Behind*. Higher expectations for students with disabilities are essential to the success of the new federal policy; therefore, the following principles guided development of this plan:

- Districts and campuses should not be put in the position of being penalized through AYP for complying with state assessment policy.
- Assessment results will not be artificially revised by retrospectively altering assessment policy in place at the time the tests were administered.
- A new SDAA II will be benchmarked in 2005. A uniform state passing standard can then be set on this test for accountability purposes.
- The proportion of special education students being instructed on grade level and therefore tested on grade level can be increased significantly with the support of the Texas Legislature.
- The proportion of special education students being instructed in functional skills only and tested on locally developed/determined alternative assessments (LDAA) in reading and mathematics can be decreased significantly.

#### Proposal for AYP Calculation

State-Developed Alternative Assessment (SDAA) and Locally Determined Alternative Assessments (LDAA)

Participation Rate calculation: Count students as participants if tested or as non-participants if not tested

Performance Rate calculation:

- SDAA  
2004 AYP Status: Include results if IEP team expectations were established (do not include benchmark tests that have no IEP team expectations); count as proficient if met IEP team expectations  
2005 and 2006 AYP Status: To be determined – 2004-05 is the statewide benchmark administration of the new SDAA II test
- LDAA  
2004 – 2006 AYP Status: Include results; count as proficient if met IEP team expectations

#### Alternative Assessment Targets

For 2004 AYP calculation, count as proficient all students meeting ARD expectations on SDAA or LDAA. Phase in to the lower cap (see Table 3 of Attachment 2) as the new alternative assessment is implemented and state assessment policy is aligned with NCLB.

## **State Actions Related to AYP**

### **2003-04**

- Implement a testing window for reading and mathematics grades 3-8 and 10
- Request performance and participation hold harmless on all alternative assessments
- Request that USDE provide technical assistance/guidance specific to the SDAA II and the 2004-05 exception request
- Determine need for statutory changes to state assessment program in order to implement NCLB
- Field test SDAA II for grades 3-10
- Develop alternatives for evaluation of SDAA results in 2005 based on analysis of SDAA II field test data
- Collect LDAA participation and performance data on state assessment test answer documents
- Notify districts of AYP plan approved by USDE (direct mailing, web site posting, video conference, etc.)
- Form a stakeholder group to assist in the development of a comprehensive professional development plan regarding the delivery of high quality instruction in reading/English language arts, mathematics, and science to the struggling learner
- Explore the development of TAKS performance and participation measures, SDAA II academic gap closure measures, and other performance/participation indicators for inclusion in the new performance-based monitoring system for special education

### **2004-05**

- Explore expansion of new SDAA II to replace LDAA for reading/English language arts and mathematics for grade 3-8 and 10
- Develop legislative recommendations, in collaboration with the Legislative Leadership and USDE, for changes to state assessment program, if necessary
- Establish exception request to the 1% cap in collaboration with Legislative Leadership and USDE
- Develop guidelines for districts requesting exception to state cap
- Adopt policy for evaluation of performance on benchmark administration of SDAA II
- Set uniform state standard for SDAA II
- Redesign comprehensive system of technical assistance and support (Education Service Centers, higher education, digital communities of practice, etc.) specific to the delivery of high quality instruction in reading/English language arts(ELA), mathematics, and science to the struggling learner
- Develop training for IEP teams in new instruction and assessment goals; conduct training of trainers with Education Service Centers to provide professional development and technical assistance to districts
- Create teacher preparation collaborative(s) to ensure that pre-service instruction in the delivery of high quality instruction in reading/ELA, mathematics, and science is available to all pre-service general and special education teacher candidates
- Continue to provide training for district administrators in appropriate use of federal and state special education and Title I funds to support instruction for students with disabilities, including guidelines for identification of supplemental service providers for special education instruction
- Develop plan for implementation of legislative policy
- Continue design of performance based monitoring system

## ATTACHMENT 4

### Transition Plan for Students with Limited English Proficiency Tested on Alternative Assessments

Texas state law authorizes schools to grant exemptions to qualifying recent immigrant limited English proficient (LEP) students. Texas statute concerning LEP student exemptions is provided in Excerpt A of Attachment 1.

Texas has a multi-tiered, student-by-student decision process for determining which recent immigrant students may be appropriately exempted from TAKS. For each individual student, there are also stringent documentation requirements. The language proficiency assessment committee must document that the need for exemption is strictly related to the student's inadequate schooling outside the United States (US). This committee must also record and monitor the instructional interventions that are being implemented to maximize the student's academic and linguistic progress.

Of the almost 300,000 Texas LEP students in Grades 3-12 in spring 2003, fewer than 40,000 were granted LEP exemptions from TAKS. Based on data collected in the spring of 2002, it is estimated that the students granted a LEP exemption for longer than two school years typically make up less than 3% of the total LEP students in Grades 3-12.

The following proposal is made to responsibly set forth a plan to modify current state assessment policies related to recent immigrant LEP students who are currently eligible for exemption from the TAKS assessments. The following principles guided development of this plan:

- Districts should not be required to give exempt recent immigrants assessments that provide little useful and often misleading diagnostic information about what these students know and can do.
- The proportion of recent immigrant LEP students assessed in mathematics will be increased when appropriate ways of assessing them can be determined, developed, and implemented.
- The Reading Proficiency Tests in English (RPTE), an assessment designed to measure progress, will not be retrofitted to have a uniform passing standard because performance expectations for recent immigrants differ according to critical variables such as how long they have been in US schools. Linking performance expectations on RPTE to the time the students have been in US schools, as set forth in this proposal, results in a rigorous, appropriate performance standard.
- Districts and campuses should not be put in the position of being penalized through AYP for complying with state assessment policy.

#### Proposal for AYP Calculation

##### Reading Proficiency Tests in English (RPTE)

Participation Rate calculation:

- Count as participants those students with limited English proficiency (LEP) who are LEP-exempt from the Texas Assessment of Knowledge and Skills (TAKS) reading/ELA tests and who take RPTE in Grades 3-8 and 10.
- If these students are reported on the answer document as absent for RPTE, they are included in the total number of Texas public school students who are reported as absent in the designated grade.

Only recent immigrants determined to be eligible for a LEP exemption from TAKS would be eligible for inclusion in the AYP participation calculation through RPTE.

During the time a recent immigrant is developing a command of the English language, RPTE provides useful diagnostic information about (1) how much English students can understand when reading and (2) the extent to which they are developing the reading skills of the state-mandated curriculum. The following proposal for the performance rate calculation bases performance expectations both on how long the student has been in US schools and the level of performance the student demonstrates on his or her first RPTE test. The resulting standard establishes the expectation that each individual recent immigrant makes steady annual progress.

Performance Rate calculation:

- **Baseline RPTE Examinees not Tested on TAKS:**  
Students reported on the answer document in the category of first school year in the US are not included in the performance measure.  
Students reported on the answer document in the category of second school year in the US meet the AYP performance standard if they score Intermediate or higher.  
Students reported on the answer document in the category of third school year in the US meet the AYP performance standard if they score Advanced.  
Students for whom no years in US schools information is provided meet the AYP performance standard only if they score Advanced.
- **Previous RPTE Examinees not Tested on TAKS:**  
Students reported on the answer document in the category of second school year in the US meet the AYP performance standard if they score Advanced or progressed to Intermediate from a previous score of Beginning.  
Students reported on the answer document in the category of third school year in the US meet the AYP performance standard if they score Advanced.

This proposal establishes specific performance standards based on time in US and the level of performance the student demonstrates on the first RPTE test taken. Students who score Advanced on RPTE before their third school year in the US are part of the TAKS performance measure. Additionally, after their third school year in the US, all recent immigrants are part of the TAKS AYP performance measure regardless of whether some of them have not yet reached the Advanced level on RPTE.

#### Alternative Assessment for Mathematics

Texas will develop an alternative system for assessing the mathematics skills of recent immigrant LEP students eligible for exemption from the TAKS mathematics tests under current state policy. This system will assess these students on the state academic content and achievement standards in mathematics. This system will provide meaningful information about what these students know and can do in mathematics and not produce results that are confounded by the fact that recent immigrants eligible for this alternative system will have a limited ability to understand English. An implementation date for this system will depend on 2005 legislative action and the time needed to develop a valid assessment system.

Participation Rate calculation:

- Count as participants recent immigrants eligible for a LEP exemption from TAKS in Grades 3–8 and 10 if they take a TAKS released mathematics test with appropriate linguistic accommodations. If they are not tested, they will be counted as non-participants in the participation calculation.

Performance Rate calculation:

- Students reported on the answer document in the category of first school year in the US are not included in the performance measure.

- 2004 and 2005: Do not include alternative mathematics results in the mathematics performance measure.
- 2006 and beyond: To be determined pending development activities described on the following page.

## **State Actions Related to AYP**

### ***2003–04***

- Implement new assessments to holistically rate the English language proficiency of the close to 600,000 K–12 LEP students in the following additional domains: listening, speaking, reading (K–2 only), writing, and comprehension as required under Title III of NCLB.
- Offer districts the option of administering a released TAKS mathematics test with linguistic accommodations as an alternative mathematics assessment (not currently part of state assessment policy) to recent immigrants who are LEP-exempt from TAKS mathematics tests.
- Collect data on recent immigrants' participation in the alternative mathematics assessment through coding on state assessment program answer documents.
- Determine whether there is a need for changes to the Texas Education and Administrative Codes in order to implement NCLB and new federal regulations related to the assessment of recent immigrant students.
- Review TAKS mathematics test items to ensure that they are written in a way that is as understandable as possible for recent immigrant LEP students while maintaining necessary construct validity for native English speakers. Incorporate this review into the process for development of new test items to be field-tested beginning in spring 2004.
- Determine a timeline for the development of a second edition of RPTE, which will add a Grade 2 reading assessment.

### ***2004–05***

- Analyze mathematics assessment data collected in 2003–04 and pilot additional options for use in 2004–05, such as additional guidelines related to linguistic accommodations or alternative test forms.
- Explore options, including potential uses of online testing, for scoring alternative mathematics assessments and reporting results.
- Develop legislative recommendations for changes to the state assessment program, if necessary.
- Develop new state policy regarding mathematics assessment of recent immigrants exempted from TAKS.
- Develop measure of progress in English language proficiency to be used as a base indicator in the state accountability system.
- Begin development of RPTE II, and expand the holistic training component that is part of the new English language proficiency assessment system.
- Provide additional information to districts on appropriate use of Title I funds to support mathematics instruction and assessment for LEP students.

### ***2005–06 and Beyond***

- Develop training for language proficiency assessment committees (LPACs) in new LEP assessment policies; conduct training of trainers with education service centers to provide professional development and technical assistance to districts.
- Field-test the second edition of RPTE in 2005–06 and implement it in 2006–07.
- Incorporate measure of progress in English language proficiency as a base indicator used for state accountability.

## ATTACHMENT 5

### Additional Proposals for Changes to the Texas AYP Plan

**Results Evaluated.** Beginning in 2003, tests that fall under the provisions of the Student Success Initiative (SSI) are administered twice in the spring. The SSI requires that students pass certain tests in order to be promoted to the next grade. Beginning in 2003, students must pass the grade 3 reading test as a requirement for promotion to grade 4. Although the grade 3 reading test covers the entire grade 3 reading curriculum, an early administration of the test is scheduled in late February or early March to allow for the multiple spring administrations required by state statute. The grade 3 reading test is administered again in early April along with the reading, mathematics, science, and social studies tests for all of the grades. Based on discussion of comments related to 34 CFR §200.20(c)(3) reported in the Federal Register, Vol. 68, No. 236, the following changes to the AYP calculation are proposed to incorporate “banked” test results from the early administration of the grade 3 reading test in the AYP participation and performance measures:

1. **First-time Testers:** Include in the Reading Participation Rate as participating those grade 3 students tested during the early administration of the grade 3 reading test. Include performance of students tested during the early administration in calculation of the Reading Performance Rate. In addition to the banked results from the early administration of the grade 3 test, include in the calculation of the Reading Participation Rate as participating those grade 3 students who were tested for the first time in April. Include performance of students tested for the first time in April in calculation of the Reading Performance Rate.
2. **Retesters.** Because the early administration of the grade 3 reading test is conducted when only 6 months of instruction has taken place, with a test designed to test the entire grade 3 reading curriculum, include performance of students who fail the test and retest in April in calculation of the Reading Performance Rate.
3. **Phase-in of SSI.** Apply these decisions to the following tests and grades as the SSI policy is phased in.
  - Beginning in 2005: grade 3 reading, grade 5 reading and mathematics
  - Beginning in 2008: grade 3 reading, grade 5 reading and mathematics, grade 8 reading and mathematics

**Calculations.** The performance targets, performance rates, participation target, and participation rates for the AYP reading and mathematics measures are rounded to one decimal place. The following changes to these calculations are proposed:

1. Round reading and mathematics performance targets and rates to integers. Round decimal values of 0.5 or more to the next highest integer. Drop decimal values of 0.4 or less. The following table shows proposed changes in the approved AYP targets. The baseline targets are rounded to integers. The remaining targets are recalculated from the rounded baseline targets rather than rounding numbers that were previously rounded to one decimal place.

		AYP Targets								
		Target 2002-03 2003-04	Target 2004-05 2005-06	Target 2006-07 2007-08	Target 2008-09	Target 2009-10	Target 2010-11	Target 2011-12	Target 2012-13	Target 2013-14
<b>Reading/English Language Arts</b>		47%	53%	60%	67%	73%	80%	87%	93%	100%
<b>Mathematics</b>		33%	42%	50%	58%	67%	75%	83%	92%	100%

2. Round reading and mathematics participation targets and rates to integers. Round decimal values of 0.5 or more to the next highest integer. Drop decimal values of 0.4 or less. Participation rates rounded to integers will be compared against a target of 95%.

**School Improvement Identification.** Federal statute (NCLB), federal regulations (34 CFR §200.32), and the Texas AYP Plan (Consolidated State Application Accountability Workbook) state that if a campus or district receives funding under Title I, Part A and fails to make AYP for two consecutive years, the campus or district is identified for School Improvement. Based on guidance from USDE, “two consecutive years” is being interpreted to mean that the campus or district failed to meet all of the requirements on the same indicator (reading, mathematics, graduation rate, or attendance rate) for two consecutive years. Since this interpretation is not part of federal statute, federal regulations, or the Texas AYP Plan, the following alternate interpretation is proposed:

1. If a campus or district receives funding under Title I, Part A and fails to make AYP for two consecutive years on the same specific measure, the campus or district is identified for School Improvement. For example, a campus or district that fails to meet AYP for economically disadvantaged student mathematics participation in one year would have to fail to meet AYP for economically disadvantaged student mathematics participation the following year to trigger the “two consecutive years” provision.

**Average Participation Rate.** Procedures will be developed for using data from the previous one or two years to average the participation rate data for a school or student group as needed. If this two or three year average meets or exceeds 95 percent, the school will meet this AYP requirement. This provision prevents schools from being unduly identified as “missing AYP” because of a one or two year dip in their participation rates.

**Participation Safe Harbor.** There is a “safe harbor” calculation for each indicator in the AYP calculation except the reading and mathematics participation rate indicators. Following is a proposed “safe harbor” calculation for campuses and districts that do not meet the 95% participation rate standard but improve test participation rates substantially from the prior year:

1. For all students and each student group that fails to meet the 95% standard on the assessment participation rate, AYP participation requirements are met if there is a 10-percent decrease from the prior year in percentage of students not tested.

This provision prevents school from being unduly identified as “missing AYP” when their participation rates are increasing.

**Participation Numerator Control.** As few as three students absent on the day of testing can cause a campus or district not to meet the 95% standard for the participation rate. The validity of these decisions was questioned, resulting in appeals that required the commissioner of education to make subjective decisions about reasons for student absences on the day of testing. In 2003, the AYP status for 507 campuses and 57 districts with fewer than 10 students absent on the day of testing was determined based on subjective evaluation of reasons for absences. The following

addition to the minimum size criteria for the participation rate is proposed to reduce the number of invalid AYP status decisions subject to reconsideration through the appeals process:

1. Do not evaluate the participation rate if there are fewer than 5 non-participants (denominator minus numerator is less than 5).

**Small Districts and Campuses and No Students in the Grades Tested.** The Texas Consolidated State Application Accountability Workbook dated July 2, 2003, describes methods for evaluating performance of small campuses and districts and campuses with no students in grades tested for 2003 only. Those methods are updated below based on availability of two years of test results under the TAKS and pairing relationships established for state accountability purposes.

1. For districts and campuses with fewer than 50 total students in the grades tested (summed across grades 3-8 and 10) for either reading/language arts or mathematics or no students in the grades tested, one or a combination of the following methods will be used for AYP evaluations.
  - o Use the pairing relationships established for the state accountability system for campuses with no students in grades tested. In this situation, districts pair campuses with no students enrolled in the grades tested with a campus with which they share a feeder relationship.
  - o Evaluate districts and campuses on test results for fewer than 50 students.
  - o Incorporate confidence intervals using the standard error of the proportion on test results fewer than 50 students.
  - o Aggregate two years of assessment results.
  - o Assign the district AYP status to campuses with too few students to evaluate.

**Alignment of State Accountability Ratings and AYP Status.** The state accountability ratings and AYP status will be aligned in the following ways beginning in 2004.

1. Release Date. The release date of state accountability ratings and AYP status will be aligned in 2004. All campuses and districts potentially subject to school improvement status in 2005 would be notified by the uniform start date of types of activities required under different 2004 AYP Status designations. Districts and campuses must be prepared to take required actions such as parental notification, offering school choice, and provision of supplemental services, immediately following the release of 2004 AYP Status and 2004 state accountability ratings. Implementation of these actions will be monitored through the TEA Performance-Based Monitoring system.
2. Labels. Align the labels for state ratings and AYP status:
  - Exemplary, Meets AYP:* Title I and non-Title I campuses and districts that meet state *Exemplary* standards and meet AYP.
  - Exemplary, Missed AYP [reason]:* Title I and non-Title I campuses and districts that meet state *Exemplary* standards but miss AYP. The label will show the reason the campus or district missed AYP.
  - Recognized, Meets AYP:* Title I and non-Title I campuses and districts that meet state *Recognized* standards and meet AYP.
  - Recognized, Missed AYP [reason]:* Title I and non-Title I campuses and districts that meet state *Recognized* standards but miss AYP. The label will show the reason the campus or district missed AYP.
  - Academically Acceptable, Meets AYP:* Title I and non-Title I campuses and districts that meet state *Academically Acceptable* standards and meet AYP.

*Academically Acceptable, Missed AYP [reason]:* Title I and non-Title I campuses and districts that meet state *Academically Acceptable* standards but miss AYP. The label will show the reason the campus or district missed AYP.

*Academically Unacceptable: Meets AYP:* Title I and non-Title I campuses and districts that do not meet state *Academically Acceptable* standards and meet AYP.

*Academically Unacceptable: Missed AYP [reason]:* Title I and non-Title I campuses and districts that do not meet state *Academically Acceptable* standards and do not meet AYP.

3. Appeals Process. The appeals processes for state ratings and AYP status will be aligned. The final (post-appeals) state ratings and AYP status will be released together.

Further alignment of the state and federal systems will be considered in the future after design of the state accountability system is completed and amendments to the Texas AYP Plan have been approved by USDE. Under certain conditions, for example, failure to meet AYP may prevent a campus or district from receiving an *Exemplary* rating under the state accountability system.

**Graduation Rate.** The graduation rate used as the AYP indicator for high schools and school districts is the graduates component of the longitudinal completion/student status rate. The completion/student status rate is made up of four components: graduates, continuing students, GED recipients, and dropouts. The completion rate indicator that will be used in the new state accountability system counts graduates and continuing students (students who return to school for a fifth year) in the definition of high school completer. Fifth-year continuing students are included in the completion rate so that students who take longer than 4 years to complete high school are not counted as leavers while they are still enrolled and working toward completion. This group includes special education students whose individual education plan is a 5 or 6 year graduation plan, high-school aged recently-arrived unschooled immigrants, and students who were retained after entering grade 9. This definition recognizes that continuing students are much more likely to graduate than to drop out or receive a GED. The following proposed change would align the completion rate indicators in the state and federal accountability systems:

1. Include continuing students in the definition of high school completer for the graduation rate used as the AYP indicator for high schools and school districts.

**Targeted Assistance Schools.** Procedures will be developed for considering the achievement only of students who are served by Title I, or who are eligible to receive Title I services, when calculating AYP for targeted assistance schools. The reading and mathematics participation and performance requirements described in the Texas AYP Plan will be used, including evaluation of students groups that meet minimum size criteria. The AYP calculation for targeted assistance schools will include evaluation of the other indicator (graduation rate or attendance rate). If this approach is applied to a school district, the AYP calculation for the district will include all students attending schools without Title I programs and with schoolwide Title I programs, as well as Title I students in schools with targeted assistance programs. The progress of all students, regardless of eligibility for Title I services, will be included in the AYP calculation for the state.