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## 2007 AYP APPEALS GUIDELINES

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Adequate Yearly Progress (AYP) appeals will generally request a review of one of the indicators used to determine the AYP status: Performance, Participation, and the Other Indicator.

### **General Guidelines Related to All Appeals**

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

TEA staff will not contact school districts for additional information if the documentation provided is not sufficient. The appeal will be evaluated based on information provided in the appeal letter and on the required AYP Appeal Form.

Appeals cannot be based on data used to evaluate the prior year AYP status.

### **Late Appeals are not considered**

Late appeals will be denied on the principle that the stated appeal deadline must be enforced. The 2007 Adequate Yearly Progress Guide explicitly states that in order to maintain a fair appeals process, no late appeals will be considered. TEA legal counsel advised that if a late appeal was to be considered, all districts would need to be informed of the extension and given the opportunity to appeal late. A letter of appeal is considered late if it is postmarked after Friday, September 7, 2007.

### **Appeal of the USDE approved Texas AYP Workbook requirements are not considered**

Appeals to the performance or participation indicators based on the results of TAKS-Alternate (TAKS-Alt), Locally Determined Alternate Assessment (LDAA), or Reading Proficiency Tests in English (RPTE) as required by the United States Department of Education (USDE) approved 2007 Texas AYP Workbook are recommended to be denied.

**Justification:** In February, 2007, TEA submitted amendments to the Texas AYP Workbook based on policy decisions issued by the USDE in 2006 and the November 2005 USDE flexibility agreement. The agency takes the position that consideration of appeals based on calculations required by the 2007 Texas AYP Workbook would violate USDE agreements, reviews, and regulations. Following are the policy decisions and their requirements applicable to the 2006-07 school year.

The USDE Flexibility Agreement on Inclusion of Students with Disabilities in AYP, signed November 30, 2005, requires students taking LDAA to be counted as non-participants. The flexibility agreement also requires that students taking the TAKS-Alt field test to be counted as participants, but included in performance as non-proficient for calculating AYP.

USDE/NCLB Standards and Assessments Peer Review response of October 27, 2006, required that recent immigrant limited English proficient (LEP) students enrolled two or more years in U.S. schools who take RPTE and no other assessment be counted as non-participants, and that Linguistically Accommodated test (LAT) version of the TAKS and SDAA II Reading/English Language Arts test be included in participation and performance results.

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On September 13, 2006, the final federal regulation regarding the inclusion of limited English proficient (LEP) students in AYP allows recent immigrant limited English proficient (LEP) students in their first year of enrollment in a U.S. school to be excluded from AYP performance results.

As stated in the 2007 AYP Guide, due to the expiration of the Katrina/Rita flexibility agreement, appeals related to Hurricanes Katrina and Rita will not be considered.

### Decision Guidelines for Performance Appeals

Note that appeals of the results of the application of the Federal 3% cap will not be considered. Appeals to the performance indicators include the following categories.

#### Appeal of the Use of SDAA II

Appeals to the performance indicators based on the results of SDAA II are found in the following two categories.

- Coding errors on Achievement Levels that either defaulted to Level III or other Achievement Levels due to the error. These appeals are recommended to be granted based on the following criteria:
  - The district provided sufficient documentation of the ARD Committee decision to assign an Achievement Level other than the coded level for the students in question and the documentation was dated prior to the administration of the SDAA II.
  - The student(s) performance met or exceeded expectations based on the actual SDAA II achievement levels.
  - The district provides a reasonable explanation for why the documents were improperly coded at the time of testing.
  - Districts must not have a similar appeal in the prior year.
  - The SDAA II achievement level was on the same grade level as the enrolled grade level. If the student results are for below grade level SDAA II assessments, the school district must not exceed the federal cap limit on proficient results from alternative assessments and must have sufficient cap space available for the additional miscoded results found to be proficient.
  - Recalculation of the proficiency rate to include changes to SDAA II outcomes results in meeting the AYP performance indicator requirements.

**Justification:** The 2007 ARD assessment procedures and test coordinator manual instruct districts to establish expectations for all students who are taking the SDAA II test and to code the ARD expectations on the test answer document. Similar appeals are also recommended to be granted in the state accountability system to prevent coding or technical errors on the student answer documents from affecting the rating. This policy differs from PEIMS errors in that, unlike, PEIMS, there is no second opportunity to correct answer document information prior to it being used for accountability.

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- Requests to use SDAA II proficient results from the second administration of Reading or Mathematics assessments for Grades 3 and 5 (rather than the results from the first administration of TAKS). These appeals are recommended to be granted based on the following criteria:
  - The district provided sufficient documentation of the ARD Committee decision to assess using the SDAA II.
  - The SDAA II achievement level was on the same grade level as the enrolled grade level. If the student results are for below grade level SDAA II assessments, the school district must not exceed the federal cap limit on proficient results from alternative assessments and must have sufficient cap space available.
  - The student(s) performance met or exceeded expectations based on the actual SDAA II achievement levels.
  - Recalculation of the proficiency rate to include changes to SDAA II outcomes results in meeting the AYP performance indicator requirements.
  - The school district PBMAS special education indicator results show Performance Level (PL) = 3 on less than **three** PBMAS special education indicators; or, the combination of PL = 3 on less than **two** indicators and PL =2 on less than **four** indicators.

**Justification:** SDAA II results are an integral part of a single AYP performance indicator, and, therefore, SDAA II performance cannot be removed or added without consideration to the Federal 3% cap. For this reason, requests to consider student proficient results on SDAA II below grade level assessments are only considered if the district has not exceeded the 3% cap. Requests to include SDAA II results for students assessed on a grade level equal to their enroll grade level are not subject to the federal cap, and, therefore, may be considered favorably.

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. PBMAS indicators are used to help evaluate SDAA II appeals in order to prevent granting an appeal related to special education student performance for a district that is involved with interventions because of special education program problems.

### **Appeal of student performance**

Appeals based on assessment document coding errors will be recommended to be granted based on the submission of sufficient documentation. Appeals based on coding errors that occurred due to the administration of TAKS Reading/ELA or Mathematics tests using linguistic accommodations include the following.

- Appeal of Reading/ELA or Mathematics performance based on the submission of documentation that LEP students exempt from the TAKS assessment by the Language Proficiency Assessment Committee (LPAC) were not properly coded

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when administered a TAKS Reading/ELA or Mathematics test using linguistic accommodations.

- Appeal of Reading/ELA and/or Mathematics performance based on evidence that current or monitored LEP students were not appropriately identified.

Each appeal found in the above categories is recommended to be granted based on the following criteria:

- Assessment data, PEIMS Fall Enrollment data, and PEIMS Attendance data are used to confirm LEP student status.
- Districts must not have a similar appeal in the prior year.

**Justification:** LEP students who are exempt from the TAKS Reading/ELA and Mathematics test were tested with linguistic accommodations on the secure TAKS test. Also, monitored-LEP status was coded on the test answer document. Sufficient documentation regarding any miscoded answer documents must be included to grant this appeal.

### Decision Guidelines for Participation Appeals

Participation appeals will be recommended to be granted for 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 indicator if they were absent during the testing period due to a medical emergency. Information on reason for absence are not available at the state level; therefore, this provision can only be implemented through the appeals process.

- 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 II. If districts submit the proper documentation, appeals will be granted to prevent coding errors from affecting AYP status.

- Linguistically Accommodated tests administered to LEP students exempt from the TAKS Reading/ELA or Mathematics tests, or Reading/ELA or Mathematics tests administered to current or monitored LEP students that are miscoded and not appropriately calculated in the participation indicator.

**Justification:** Linguistically Accommodated tests in Reading/ELA were administered for the first time during 2006-07. Current and Monitored LEP status was coded on the test answer document. District appeals to the participation status of students tested on the LAT tests must include proper documentation of a LAT administration or validation that the tested student is either a current or monitored LEP.

- TAKS-Alternate (TAKS-Alt) online field test submission errors.

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**Justification:** The TAKS-Alternate field tests were administered for the first time in Spring 2007 using a secure online system designed for alternative assessment methods that allowed for the uploading of electronic files for the documentation of student's performance. District appeals to the participation status of students tested on the TAKS-Alt field test must include proper documentation or validation of the administration of an assessment. Appeals will be granted to prevent coding or technical errors from affecting AYP status.

### Decision Guidelines for Appeals on the Other Indicator

AYP appeal for review of the other indicator (either Attendance or Graduation Rate) is recommended to be granted under the following conditions. These rules apply to evaluation of the other indicator and to use of the other indicator in the performance rate safe harbor provision.

#### Attendance Rate Appeals

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

**Justification:** The prior year attendance data were used for the 2007 AYP indicator since the current year attendance data were not available when the preliminary AYP data were provided to districts. Current year attendance data may be substituted for the prior year data to ensure that the appeal decision is based on the most current data available. If the attendance indicator is reevaluated using 2006-07 attendance data, all measures based on attendance will be reevaluated. A district or campus cannot meet some 2007 AYP standards using 2005-06 Attendance Rates and meet other standards using 2006-07 Attendance Rates.

#### Graduation Rate Appeals

Accuracy of leaver data submitted to TEA by the district is a factor considered in evaluation of the merits of all Graduation Rate appeals.

- 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 meeting the AYP requirement for other indicator or performance indicator (regardless of the results of the other indicator). A recalculated graduation rate is determined for a specific student group and must result in either 1) an improvement in the rate for the specific student group as required under performance improvement, or 2) reduces the denominator below the minimum size criteria for the student group.

**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 assigned to the Class of 2006 cohort (students in their first year in a U.S. school in the 2005-06 school year) from the graduation rate calculation and the change in the rate results in meeting the AYP requirement for other indicator or performance indicator (regardless of the results of the other indicator). A recalculated graduation rate is determined for a specific student group

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and must result in either 1) an improvement in the rate for the specific student group as required under performance improvement, or 2) reduces the denominator below the minimum size criteria for the student group.

**Justification:** Per the May 20, 2004, USDE letter, recent immigrant LEP students assigned to the Class of 2006 cohort who are in their first year in U.S. schools in the 2005-06 school year may be excluded 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.

### **Decision Guidelines for Graduation Rate Appeals from Alternative Education Campuses**

AYP appeals for review of the Graduation Rate from alternative education campuses require that the campus provide evidence the campus serves “students at risk of dropping out of school.” They may do this by either having registered as an Alternative Education Accountability (AEA) campus under the state accountability alternative education campus registration process, or showing that they are eligible for registration as an AEA campus but have chosen not to register.

#### **District Appeals**

School district appeals are considered for appeal requests to remove students served in a Texas Youth Commission (TYC) facility, TYC contracted facility or halfway house who were included in the graduation rate calculation. Sufficient student identification information must be provided. The school district appeal is recommended to be granted when the recalculation excluding these students results in meeting the AYP graduation indicator requirements or the indicator no longer meeting minimum size requirements.

District appeal requests for a recalculation of the district graduation rate based on allowable appeals for alternative education campuses are not considered except for charter districts that are registered for evaluation under AEA procedures.

#### **Campus Appeals**

Alternative education campus appeals for a recalculation of the graduation rate are recommended to be granted when the recalculation results in meeting the AYP graduation indicator requirements. Appeal requests are considered for:

- An alternative education campus requests the exclusion of students who received a General Educational Development (GED) certificate. If the recalculated graduation rate does not meet the AYP standard, the prior year graduation rate is also recalculated to exclude GED recipients for a consistent measure of improvement in the graduation rate.
- An alternative education campus requests the exclusion of continuing students. If the recalculated graduation rate does not meet the AYP standard, the prior year graduation rate is also recalculated to exclude continuing students for a consistent measure of improvement in the graduation rate.
- 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 the campus in the fall of the 2006-07 school year after their

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classmates in the Class of 2006 have completed school. Sufficient student identification information must be provided.

- An alternative education campus requests that the Graduation Rate not be evaluated if the AEC did not have students enrolled in Grade 12 in the 2006-07 school year.
- An alternative education campus requests the exclusion of either GED or continuing students from the graduation rate calculation *as an appeal for the performance indicator* (regardless of the results of the other indicator). A recalculated graduation rate is determined for a specific student group and must result in either 1) an improvement in the rate for the specific student group as required under performance improvement, or 2) reduces the denominator below the minimum size criteria for the student group. The prior year graduation rate for the specific student group is also recalculated to exclude GED and/or continuing students for a consistent measure of improvement in the graduation rate.

**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 graduation rate calculation has a negative impact on alternative education campuses. The USDE National Center for Education Statistics includes only graduates and dropouts in their estimated completion rate. In addition, the longitudinal rate is calculated for campuses that serve grades 9 – 12 and classifies students as 4-year graduates. Alternative education campuses may not have any students enrolled in Grade 12 and as a result, the calculation of a 4-year longitudinal graduation rate is inappropriate.

### **Graduation Rate Appeals based on the School Leaver Provision are not considered**

The 2007 Texas AYP Workbook, approved by the USDE, does not permit Texas to waive the use of the National Center for Educational Statistics (NCES) dropout definition, implemented in the 2005-06 school year. Therefore, graduation rate appeals requesting a “hold harmless” provision similar to the School Leaver Provision in state accountability cannot be considered.

### **Graduation Rate Appeals based on an expanded definition of recent immigrant limited English proficient (LEP) students are not considered**

The 2007 Texas AYP Workbook, approved by the USDE, does not permit Texas to exclude recent immigrant limited English proficient (LEP) students from the Other indicator, specifically, Graduation Rate, when determining AYP status. Final federal regulations regarding the inclusion of LEP students in AYP issued on September 13, 2006, limit the definition of recent immigrants to students in their first year of enrollment in a U.S. school and only allow their exclusion from AYP *performance* results. These regulations do not extend the exclusion to the Other indicator. However, appeals to the Graduation Rate for the exclusion of recent immigrant LEP students in the Class of 2006 cohort who are in their first year in U.S. schools in the 2005-06 school year will continue to be considered. Appeals to the Graduation Rate for the exclusion of recent immigrant LEP students assigned to the Class of 2006 cohort who were in their first in U.S. school prior to the 2005-06 school year will not be considered.

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### **Graduation Rate Appeals based on students displaced by Hurricanes Katrina and Rita are not considered**

On May 23, 2006, the USDE issued a flexibility waiver allowing TEA to amend the 2006 AYP process to address districts and campuses affected by Hurricanes Katrina and Rita. According to the waiver, "[I]n calculating attendance and graduation rates for 2006-07 AYP, Texas must include all students that were in the displaced student subgroup in 2005-06 in all appropriate subgroups." Consideration of appeals based on students displaced by Hurricanes Katrina and Rita would violate the flexibility waiver.