
2010 AYP APPEALS GUIDELINES

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. These guidelines provide further detail of the *2010 AYP Guide, Section V: Appeals*, which is filed as Commissioner Rule amendment to 19 Texas Administrative Code §97.1004, Adequate Yearly Progress each year, thus giving legal standing to the AYP status process and procedures.

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 packet 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 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 3, 2010.

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

Appeals Related to the use of Assessments

Appeals to the performance or participation indicators based on the use of tests results of the Texas Assessment of Knowledge and Skills (TAKS) Accommodated, TAKS-Modified (TAKS-M), TAKS-Alternate (TAKS-Alt), or Texas English Language Proficiency Assessment System (TELPAS) Reading as required by the United States Department of Education (USDE) approved Texas AYP Workbook are recommended to be denied.

Appeals Related to the Federal Cap and Campus Rankings

Appeals to the performance results due to the application of the federal 1% and 2% caps, the federal 2% campus ranking applied by TEA or submitted by school districts, or on the basis that the district's exception to the 1% cap was approved is recommended to be denied.

Appeal Requests to exclude students based on State Statute

Appeals to an AYP indicator (performance, participation, graduation rate, or attendance) requesting the exclusion of students are only considered if the exclusion is detailed in the Texas AYP Workbook approved by the USDE. Requests based on current or future state statute, such as exclusions to the NCES dropout definition or unschooled refugee/asylee exclusions, cannot be considered.

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Justification: The USDE Flexibility Agreement on Inclusion of Students with Disabilities in AYP, signed November 30, 2005, allowed the use of existing state assessments for calculating AYP until the expiration of the agreement on December 1, 2007. Since that time, Texas developed or modified existing assessments, created new alternate assessments, and applied the federally required caps on proficient results from alternate assessments in order to comply with the requirements of the No Child Left Behind Act of 2001 (NCLB).

In April, 2010, the USDE concluded a peer review of the Texas longitudinal completion rates which were found to meet the federal definition of the adjusted cohort graduation rate. Federal guidance on adjusted cohort graduation rates are closely aligned with the National Center for Education Statistics (NCES) dropout definition. The federally approved adjusted cohort graduation rate, statewide graduation rate goal, and annual targets for improvement are included in the Texas AYP Workbook.

The agency takes the position that consideration of appeals based on calculations required by the Texas AYP Workbook would violate USDE agreements, reviews, and regulations.

Decision Guidelines for Performance and Participation Appeals

Appeals to the performance or participation indicators include the following categories.

Appeal of test answer document coding errors

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, TAKS (Accommodated), TAKS-Modified, Linguistically Accommodated testing (LAT) (of TAKS or TAKS-M), or TAKS-Alt Reading/ELA or Mathematics tests include the following.

- Appeals based on test answer document coding errors of test version (TAKS Accommodated or TAKS-M), test language version (English or Spanish), or use of linguistic accommodations (LAT testing), or score code error.
- Appeals based on evidence that the economically disadvantaged status or ethnicity reported of students were not appropriately identified.
- Appeals based on evidence that students receiving special education services or limited English proficient (LEP) students currently served or exited and monitored students from LEP programs were not appropriately identified.
- Appeals based on TAKS-Alt or TELPAS online test submission errors with evidence of proper documentation or validation of the administration of an assessment.
- Appeals based on test answer document coding errors of student demographic information resulting in non-matching identification information between TELPAS and TAKS, or between the current year and prior year student history for purposes of the Texas Projection Measure (TPM).

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

- School district Performance-Based Monitoring Analysis System (PBMAS) indicators are considered when making findings on AYP appeals, including indicators related to data integrity.

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- Assessment data, Public Education Information Management System (PEIMS) Fall Enrollment data, and PEIMS Attendance data are used to confirm student information.
- Staff research establishing the history of the reported demographics is found to support the district's claim.

Beginning in 2010, the following are also consider in review of each appeal based on test answer document coding errors:

- Districts submission of a data improvement plan or other required monitoring intervention activities, particularly in the case of school districts' repeated patterns of AYP appeals based on district coding errors.
- The Program Monitoring and Interventions Division will consider school districts' repeated patterns of AYP appeals based on district coding errors when conducting monitoring intervention activities to address potential concerns related to data integrity.

If the PEIMS data does not support the claim and if the district is attempting to change the demographics after the results are known, the appeal is denied.

Justification: The state assessment program test administration policies do not allow districts to correct coding errors on the test answer documents after the documents have been submitted for scoring. Sufficient documentation regarding any miscoded answer documents must be included to grant this appeal. If districts submit the proper documentation, appeals will be granted to prevent coding or technical errors from affecting AYP status.

The PBMAS indicators are used to evaluate student performance and program effectiveness 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 AYP appeals in order to prevent granting an appeal related to student performance for a district that is involved with interventions. The Program Monitoring and Interventions Division consider school districts' repeated patterns of AYP appeals based on district coding errors when conducting monitoring intervention activities to address potential concerns related to data integrity.

Appeal of the Texas Projection Measure (TPM)

Appeals to reevaluate the reported (non-missing) result of the TPM, requests for a TPM projection from an assessment other than the one used for AYP, review of the projection calculation, or the use of an alternative (locally determined) projection other than TPM cannot be considered.

Justification: The USDE approved the use of a projection model for calculating AYP for Texas in January 2009, which was subsequently submitted and approved in the Texas AYP Workbook. The approved growth model, or Texas Projection Measure, is used to evaluate AYP based on student TPM results for grades 3 – 8 and 10 in Reading and Mathematics. Appeals are considered for miscoded answer documents resulting in mismatched demographic data that impact TPM outcomes. However, appeals related to the calculated measure will not be considered. The agency takes the position that consideration of appeals based on calculations required by the Texas AYP Workbook would violate USDE agreements, reviews, and regulations.

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Appeal of assessment administered

Appeals of the Grade 10 test results on the basis that students had not completed the appropriate number of credits for classification and assessment in Grade 10 are recommended to be denied, except in limited cases where students have transferred into the school district during the relevant school year and the student's high school credits could not be determined prior to testing.

Justification: School districts must evaluate high school credit accrual of Grade 10 student transfers prior to identifying the appropriate assessment for the spring test administration. If school district includes documentation that indicates they applied due diligence in attaining transcript information from the sending school district yet failed to properly evaluate the appropriate grade level and assessment for students **because of missing or inaccurate information from the sending school**, the appeal may be granted. School district staff have several months prior to testing to evaluate high school credit accrual of all current students and administer appropriate grade level assessments. Appeals to the administration of an inappropriate assessment in which the student was not considered eligible, considered a testing irregularity, will not be considered.

Decision Guidelines for Participation Appeals

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

- Appeals based on test answer document coding errors of test version (TAKS Accommodated or TAKS-M), test language version (English or Spanish), use of linguistic accommodations (LAT testing), or online TAKS-Alt or TELPAS test submission errors.
- Absences due to medical emergencies with documentation provided of an excused absence for medical reasons.
- Appeals based on the lack of TELPAS testing information for LEP students who either enrolled late, or after the close, of the TELPAS Reading testing window. The appeal must include documentation of the student's initial enrollment and number of years of enrollment in U.S. schools. Special circumstances are considered for residential campuses designed to serve large numbers of LEP students in transitional settings.

Justification: Sufficient documentation regarding any miscoded answer documents must be included to grant this appeal. Due to test administration policies that do not allow districts to correct coding errors after the documents have been submitted for scoring, appeals will be granted to prevent coding or technical errors from affecting AYP status.

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 the reason for absence is not available at the state level; therefore, this provision can only be implemented through the appeals process.

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.

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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 2010 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 2009-10 attendance data, all measures based on attendance will be reevaluated. A district or campus cannot meet some 2010 AYP standards using 2008-09 Attendance Rates and meet other standards using 2009-10 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 following appeals may be considered for the four-year Class of 2009 graduation rate or the five-year Class of 2008 graduation rate used to evaluate 2010 AYP. The prior year graduation rates refer to the four-year graduation rate for the Class of 2008.

- 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 improvement/safe harbor. Graduation rate recalculations can only be based on the status shown on the final longitudinal completion student cohort list for the relevant graduating class. 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 that were assigned to the relevant graduation class cohort (students in their first year in a U.S. school upon entering ninth grade). These students are excluded from the graduation rate calculation and the change in the rate results in meeting the AYP requirement for other indicator or performance improvement/safe harbor. Graduation rate recalculations can only be based on the status shown on the final longitudinal completion student cohort list for the relevant graduating class. 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: Per the May 20, 2004, USDE letter, recent immigrant LEP students assigned to the Class of 2007 cohort who are in their first year in U.S. schools in the 2006-07 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.

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- The appeal requests that the Graduation Rate not be evaluated if a very small number of students enrolled in Grade 12, the last year of the longitudinal student cohort, due to a reconfiguration of grade span for a secondary campus. Accuracy of leaver and enrollment data submitted to TEA by the district is considered in the evaluation of this appeal.

Justification: A graduation rate is calculated if at least one student is enrolled in Grade 12 of the last year of the longitudinal student cohort. For secondary campuses with historically reconfigured grade spans resulting in no graduating class, the calculation of a four-year longitudinal graduation rate is inappropriate. This condition is not included in the completion rate methodology and 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. The following appeals may be considered for the four-year Class of 2009 graduation rate or the five-year Class of 2008 graduation rate used to evaluate 2010 AYP. The prior year graduation rates refer to the four-year graduation rate for the Class of 2008.

District Appeals

School district appeals are considered for 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. Graduation rate recalculations for alternative education campus or district appeals can only be based on the status shown on the final longitudinal completion student cohort list for the relevant graduating class. 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 annual target, the prior year graduation rate is also recalculated to exclude GED recipients for a consistent measure of improvement in the graduation rate.

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- An alternative education campus requests the exclusion of continuing students. If the recalculated graduation rate does not meet the AYP annual target, 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 final year of the relevant class cohort school year *after* their classmates 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 had a very small number of students enrolled in Grade 12 during the final school year of the relevant class cohort. Grade 12 enrollment reported for the last year of the longitudinal cohort will also be considered.
- An alternative education campus requests the exclusion of either GED or continuing students from the graduation rate calculation *as an appeal for the performance improvement/safe harbor*. 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 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 graduates. Alternative education campuses may have a very small number of students enrolled in Grade 12 and as a result, the calculation of a longitudinal graduation rate is inappropriate. Accuracy of leaver data submitted to TEA by the district is a factor considered in evaluation of the merits of all Graduation Rate appeals.