

children. In addition, section 1111(b)(1)(D)(ii) of Title I and § 200.2(a)(2)(ii) of the regulations require States to establish challenging student performance standards that are aligned with the State's content standards and that include two levels of high performance and a third level of partial proficiency against which the progress of students and schools can be measured. Also, § 200.1(b)(1)(i)(B) of the regulations requires that a State plan include evidence that the State's procedure for setting student performance levels applies recognized professional and technical knowledge. Finally, provisions in sections 1116 and 1117 of Title I focus on recognized professional and technical knowledge as a basis for State systems for rewarding school districts and holding them accountable for progress. The Secretary believes these provisions adequately address the concerns of the commenters.

Changes: None.

Comment: Several commenters suggested that § 200.1(b)(2)(ii)(B) of the regulations, which requires the State plan to describe the transitional set of yearly statewide assessments the State will use to assess students' performance in mastering complex skills and challenging subject matter, be replaced with the statutory language in section 1111(b)(7) of Title I that, in the commenters' opinion, makes transitional assessments an option for States instead of a requirement. Two commenters expressed concerns that, because the regulatory provision only requires States to describe transitional assessments, it sends the message that States need not go through the approval process.

Discussion: Section 1111(b)(7) of Title I states that, if a State does not have final assessments that fully meet the statutory requirements, "the State may propose to use a transitional set of yearly statewide assessments that will assess the performance of complex skills and challenging subject matter." The Secretary does not believe that use of the word "may" in this context means that transitional assessments are optional. Rather, the Secretary believes that the word "may" permits the use of transitional assessments while final assessments are being developed, rather than requiring final assessments immediately. Moreover, because transitional assessments are part of the State plan, they are subject to peer review and approval under section 1111(d) of Title I.

Changes: None.

Section 200.2 State Responsibilities for Developing Challenging Standards

Comment: One commenter suggested that the regulations and guidance need to clarify that a State may adopt or approve locally developed standards and assessments under the Goals 2000 process or another State process for use in the Title I program. Another commenter recommended that the Department clarify whether State standards and assessments must be uniform throughout the State for Title I accountability purposes. This commenter suggested that past experience with LEAs establishing high school graduation standards resulted in high-level proficiencies for affluent communities and low-level proficiencies for poor communities.

Discussion: Section 1111(b)(1)(B) of Title I and §§ 200.2(b) and 200.4(c) of the regulations make clear that, if a State has State content standards or State student performance standards and an aligned set of assessments for all students developed under Title III of the Goals 2000: Educate America Act or another process, the State must use those standards and assessments, modified, if necessary, to conform with the requirements of section 1111 of Title I, to carry out Part A. Guidance for Goals 2000 requires that participating States develop or adopt challenging content and performance standards. It does not require that there be a single set of content or performance standards that are applied uniformly to every LEA within the State. A State may choose to develop or adopt model standards or criteria against which locally developed standards would be measured and approved.

Changes: None.

Section 200.3 Requirements for Adequate Progress

Comment: One commenter suggested that the phrase "except as provided in paragraph (c) of this section" should be deleted from § 200.3(a) of the regulations, suggesting that it appears to require States to develop two different definitions of adequate yearly progress. The commenter argued that, while Congress intended for States to use different measures in transitional and final assessment periods to determine adequate yearly progress, Congress also intended that States develop one standard for determining adequate yearly progress regardless of the assessment period.

Discussion: The Secretary believes that § 200.3 (a) and (c) of the regulations accurately reflect the statute and is necessary to give each State the

flexibility to develop and refine, over the next five years, its own approach for establishing high-quality assessments that will effectively assess learning. The definition of adequate yearly progress must be flexible to accommodate changes in State approaches to assessment. It does not make sense to require one standard for determining adequate progress when assessments used to measure that progress may be different during the transition period. The Secretary, however, does not expect States to establish lower expectations during the transitional period.

Changes: None.

Comment: One commenter suggested that references to adequate yearly progress in different regulatory sections are repetitive and could be confusing.

Discussion: State and local accountability for helping Title I children meet high standards is a central theme in the Title I statute. Adequate yearly progress plays a pivotal role in measuring accountability and it is part of several different statutory sections. The regulations clarify these statutory provisions, first with regard to the State plan and then in subsequent sections devoted to implementation. The Secretary believes that adequate yearly progress needs emphasis in the regulations to help maintain an overall focus on enabling children in Title I programs to meet the same high standards expected of all children.

Changes: None.

Comment: Two commenters argued that repetition of the statute regarding adequate yearly progress without additional explanation provides insufficient guidance to grantees.

Discussion: Section 200.3(b)(2) of the regulations provides that a State's determination of adequate yearly progress must be sufficiently rigorous to achieve the goal of helping all children served under Part A, particularly economically disadvantaged and LEP children, meet the State's proficient and advanced levels of performance within an appropriate timeframe. Each State has the flexibility to develop its own definition within its framework for standards and assessments. Standards and assessments will differ from State to State, along with definitions of adequate progress for each State's schools and LEAs. Some models and examples will be provided through policy guidance.

Changes: None.

Comment: One commenter suggested that adequate yearly progress be based on empirical data on or knowledge about growth in academic performance of schools and LEAs in the State in order to prevent States from arbitrarily using a benchmark.