

Changes: Changes to § 668.7 have been deleted from these final regulations.

Section 668.142 Special Definitions

Comments: One commenter suggested that the definition of the term "assessment center" be changed so that the location of an assessment center be at a neutral site rather than at an educational site. Another commenter suggested that "assessment centers" be located only at public institutions because public governing authorities would serve as an additional guarantee of integrity.

Discussion: The Secretary's definition of the term "assessment center" describes an organizational unit at an eligible institution that offers two-year or four-year degrees or qualifies as an eligible public vocational institution, i.e. a postsecondary vocational institution. The Secretary believes that the integrity of tests given at assessment centers will not be compromised by the geographical location of the center, or if they are given at private institutions that offer a two year or four year degree, given the long-term nature of those programs.

Changes: None.

Section 668.144 Application for Test Approval (Section 668.143 in NPRM)

Comments: Some commenters requested the Secretary's approval of placement examinations already used by their institutions. One commenter requested that the requirements for the populations participating in norming studies explicitly exclude students from schools at which the test publisher has received notice that improper test administrations have taken place.

Discussion: The Secretary will approve placement examinations used by an institution if the institution using that test submits an acceptable application and the examination satisfies all the regulatory requirements for test approval. In such a case, the institution would be considered the test publisher.

The Secretary believes that test publishers will be careful when selecting a norming sample to avoid invalidating the results of that sample. Therefore, the Secretary believes that the commenter's suggestion is not needed to obtain valid norming studies.

Changes: None.

Comments: One commenter requested that the Secretary clarify the requirement that an approved test be "validated," and pointed out that a test is validated with respect to a criterion, not a population.

Discussion: The Secretary acknowledges a confusion in the grouping of requirements listed under the "application for test approval," and has changed the verb, "validated" to "normed" in describing the contents of the technical manual in § 668.144(c)(11)(iv). In a narrow sense, validation is the process of determining the accuracy of inferences made from a test score, e.g., if a student scores above a given percentage, the more likely he or she is to complete a subsequent course. In a broader sense, validation is the process of determining the soundness of all interpretations made of the test. The Secretary notes that there are many kinds of validity, and all of them are at stake in the review of tests submitted under § 668.144.

Changes: Section 668.144(c)(11)(iv) is amended to change "validated" to "normed."

Section 668.145 Test Approval Procedures (Section 668.144 in NPRM)

Comments: One commenter suggested that when the Secretary chooses experts to evaluate tests, the Secretary only choose experts who have substantial experience in psychometrics, familiarity with the *Standards for Educational and Psychological Testing* (Standards) prepared by a joint committee of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education, and membership in one of those three organizations. This commenter also recommended that if a test did not satisfy the criteria for test approval and the test publisher appealed that decision, the test publisher would have to submit only those sections of a test subject to question and that a different group of experts be assembled to judge the appeal. The commenter further suggested that any appeal by a test publisher of the disapproval of a test be subject to the provisions of the Administrative Procedure Act.

Discussion: The Secretary agrees that professional credentials and experience are important criteria in selecting reviewers of tests, and will select experts who have substantial experience in psychometrics and familiarity with the *Standards*. The Secretary assumes that anyone who holds a graduate degree in psychometrics or evidences substantial experience in test development is familiar with the *Standards*. The Secretary believes that membership in a specific organization should not be a prerequisite to being selected as a test evaluator.

If a test is disapproved for specific discrete reasons applicable to a particular portion of a test and the test publisher appeals that result, the appeal would be based on the portion of the test that caused the disapproval. Therefore, the test publisher would presumably limit its appeal to that portion of its test, and if the appeal was successful the entire test would be approved without the need for reapplication.

The Secretary believes that the review of a test and any appeal of that review should not be conducted, and is not required to be conducted, in an adversarial, formal, or legalistic setting. Therefore, the Secretary will not subject those processes to the provisions of the Administrative Procedure Act.

Moreover, the Secretary believes it is unnecessary to select another panel of experts to advise the Secretary when a test publisher appeals an adverse decision regarding its test. The Secretary makes a decision in response to an appeal, and wishes to retain the discretion to seek the advice of experts the Secretary considers appropriate to analyze the test publisher's arguments on appeal.

In most instances, the Secretary will seek the advice of the original panel of experts regarding those arguments. In reviewing over 100 tests since January 1991, the Secretary has found that when the original panel of experts reviewed an appeal, they focused on only those issues that were not satisfactorily addressed in the original submission and provided fair and valuable advice with regard to those issues.

Changes: None.

Section 668.146 Criteria for Approving Tests (Section 668.145 in NPRM)

Comments: Many commenters from community colleges objected that approved tests must measure "knowledge of high school curricula," claiming that this was inappropriate.

Discussion: The Secretary disagrees with the commenters' interpretation of the questioned regulatory provision. The provision does not state that approved tests are based on "knowledge of high school curricula." Rather, the provision states that the tests will assess basic verbal and quantitative skills and general learned abilities at the secondary school level. These skills and general learned abilities can be acquired anywhere. The tests will not be equivalent to final exams in specific high school subject areas, such as Algebra 1, Chemistry, or Civics.

Changes: The term knowledge has been deleted as redundant.