

Comments: Some test publishers asked whether a reading test would suffice to cover the assessment of secondary school level verbal skills, or whether tests of usage and, particularly, writing samples must also be included. Some of the publishers of tests that provide subtest scores, but not composite scores, objected to the use of a single composite score for verbal skills and quantitative skills.

A few commenters addressed the point of reference of the passing score, namely, the performance of high school graduates on a specific test, and pointed out that the educational background of test-takers is not always known, particularly in norming studies that may have been conducted prior to changes in the law. One commenter expressed a similar concern with respect to ESL test-takers since the normed students must be ESL test-takers who have entered high school equivalency programs. The commenter pointed out that this latter group was very small, and the mean scores for them would not be very reliable.

Discussion: Verbal skills, such as usage, mechanics, and comprehension, must be assessed. If, however, a test measured only one language skill, such as punctuation or word recognition, that test would not be appropriate. A reading test is appropriate because it is highly correlated with other verbal skills and is a fundamental measurement of verbal ability. Writing is highly related to reading comprehension and to other verbal skills, and would, therefore, be redundant for this purpose. Therefore, an approved test does not have to have a writing sample.

The Secretary will approve a test that consists of a series of subtests. However, if the test publisher does not establish a composite verbal score and a composite quantitative score, the test publisher must present evidence that allows the Secretary to prescribe a cut score for each subtest. To pass that test, a student must score at or above the cut score for each of the subtests.

Based on existing evidence from a number of major testing programs, the Secretary believes that all test publishers can gather information on the educational background of test-takers in the ordinary course of test administration, e.g., on the cover sheet of an examination. More critically, for data necessary for setting a passing score, the educational background of participants in a norming sample can easily be ascertained, and in the case of tests requiring new norming studies, there has been ample time since the law was passed to conduct such studies.

The Secretary is persuaded by data on ESL test-takers to enlarge the reference group beyond those who have entered high school equivalency programs, but believes that entrance into some kind of formal education or training program is an important criterion with which to define this group for purposes of setting a passing score.

Changes: Section 668.146(c)(5) has been changed. The Secretary will continue to approve a test that consists of a series of subtests. However, if the test publisher does not establish a composite verbal score and a composite quantitative score, the test publisher must present evidence that allows the Secretary to prescribe a cut score for each subtest.

The Secretary has also amended § 668.148(b)(2) to enlarge the reference population for setting the passing score on ESL tests by including not only ESL test-takers who have entered high school equivalency programs, but also ESL test-takers who have entered other education or training programs, including bilingual vocational programs.

The Secretary has also modified the wording of § 668.148(a)(2)(v)(A) so that, in cases where the test is in Spanish, the test publisher provides tables of distributions of test scores with a clear indication of the mean score and standard deviation for Spanish-speaking students with high school diplomas so that the Secretary will be able to indicate the passing score. The reference to the most recent three-year period is changed to a five-year period to allow a sample of sufficient size.

Comments: Several commenters expressed confusion with regard to the establishment of a passing score in proposed § 668.145(c)(3).

Discussion: The Secretary acknowledges a misprint, hence an understandable confusion, in the proposed § 668.145(c)(3). This section should have read, and is corrected in § 668.146(c)(3) of the final regulation to read, as follows:

Except as indicated in §§ 668.148 and 668.149, provide tables of distributions of test scores that clearly indicate the mean score and standard deviation for high school graduates who have taken the test within three years before the date on which the test is submitted to the Secretary for approval;

The misprint led to a more general confusion as to who has the responsibility for designating the passing score on tests used for ability-to-benefit determinations and communicating those scores to the public. For the general population of test-takers for whom § 668.147 is applicable, the Secretary determines the

passing score for which the publisher has provided the data. For special populations and special types of administration such as those described in §§ 668.148 and 668.149, the Secretary requests the publisher to "recommend" a passing score based on the publisher's experience with the special population and/or type of administration. The Secretary reviews the recommendation, and either certifies it or, if necessary, requests clarifications prior to certification. The Secretary recognizes that this procedure needs to be modified in the case of tests given in Spanish.

The Secretary will publish the approved passing scores in the Federal Register.

Changes: Section 668.145(c)(1) has been amended to indicate that the Secretary will publish in the Federal Register the names of approved tests and the passing scores on those tests.

Section 668.147 Passing Score (Section 668.146 in NPRM)

Comments: The majority of comments received from commenters on the passing score formula took five positions. The first position was that the proposed score was too low and inconsistent with the standards included in Title IV of the Goals 2000: Educate America Act and in the School-to-Work Opportunities Act. The second position was that the proposed score was too high. The third was that the proposed score was right. The fourth position was that the proposed score should vary by program of study. The fifth position was that the proposed score should be determined by predictive validity studies using program completion as a criterion.

Two commenters also advocated using the performance of students with GEDs as the reference point for the passing score on the grounds that these people have passed a de facto national high school equivalency examination. Their performance is thus more public than that of high school graduates, hence it offers a more reliable point of comparison. And one commenter presented a plan for a "documented qualification process" that would allow institutional variations on passing scores.

Discussion: As noted earlier, the Secretary believes that there is a basic minimum competency that a student must achieve to benefit from any postsecondary education program. That basic competency is measured in terms of secondary school level basic skills and general learned abilities. Further, the Secretary believes that under section 484(d) of the HEA, in order for a person without a high school diploma or its