

These commenters cited the extra time and costs associated with test-publisher scoring.

Discussion: The purpose of the regulatory scheme regarding test administration is to remove institutions from giving or scoring tests. In return, the Secretary will not hold institutions financially responsible if they award Title IV, HEA Program funds to an ability-to-benefit students who present evidence that they passed approved tests as long as the institutions did not interfere with the independence of the testing process and were not involved in the testing process. Therefore, the Secretary strongly disagrees with the commenter's suggestion that an institution should be able to score a test. Moreover, the Secretary anticipates that there will be little delay between the time a student takes a test and the time the institution and the student receive the test results.

Changes: None.

Comments: Test publishers objected to the Secretary's requirement that an analysis of scoring patterns be performed every two years to determine irregularities. One commenter asked that the agreement between the Secretary and a test publisher explicitly forbid the publisher from requiring institutions to administer instruments in addition to those required and approved by the Secretary.

Discussion: The Secretary believes that quality control is a critical aspect of test administration, and an analysis of scoring patterns of tests is useful tool for that purpose. However, to reduce burden, the Secretary is requiring that an analysis of scoring patterns of tests be performed every three years.

The Secretary is not including in the agreement between the Secretary and a test publisher a provision that precludes the publisher from requiring institutions to administer tests in addition to those approved by the Secretary because he believes that such a provision is beyond the scope of his authority. Moreover, the Secretary notes that when faced with such a test publisher, an institution can simply choose another test and another test publisher.

Changes: The Secretary is requiring that an analysis of scoring patterns of tests be performed every three years.

Proposed Section 668.150 Agreement Between a Test Publisher and a Test Administrator

Comments: One commenter recommended that test publishers, and not educational institutions, retain the power to hire and dismiss on-site test administrators. The commenter also suggested that test publishers be

responsible for training test administrators. Another commenter suggested that the test publisher make an agreement with the institution and independent test administrators under which the institution would agree to respect the security and integrity of test administration by selling the administrators an annual license. The commenter believes that the purchase of a license will ensure proper administration of the test.

Discussion: The Secretary believes that an institution should have the option of selecting a test administrator that has been certified by a test publisher to give its students an approved ATB test. Therefore, the Secretary disagrees with the suggestion made by the first commenter.

Since a test publisher certifies test administrators to give its tests, a test publisher would presumably provide whatever training it felt necessary to obtain a sufficient number of certified test administrators for its test.

Finally, the Secretary does not see the need to have test publishers sell licenses to test administrators.

Changes: The Secretary has deleted this section, but the provisions discussed by the commenters have been incorporated into § 668.151(a) dealing with test administration.

Comments: Many commenters expressed confusion about the role of an assessment center in the test administration process. Commenters requested clarification regarding the rights and responsibilities of assessment centers. At least one commenter representing a test publisher requested the right to enter into agreements with an assessment center as a condition for the assessment center to give its test.

Discussion: The Secretary agrees with the commenters that the role of an assessment center was not sharply defined in the proposed regulations.

The Secretary envisions that an assessment center may give tests to ATB students without threatening the integrity and independence of the test. An assessment center may give an approved test to students without necessarily entering into an agreement with the test publisher. However, the Secretary agrees with the suggestion of the commenter that the test publisher should have the right to control the use of its test by allowing an assessment center to give its test only if the assessment center enters into an agreement with the test publisher.

If a student takes a test at an assessment center, the test administrator must be certified by the test publisher whose test is being given. The test administrator must also give the test

only in accordance with the test publisher's instructions, must make the test available only to a test taker during a regularly scheduled test, must collect the test from the test taker after the test is given, and must secure the test against disclosure or release.

An assessment center may, however, score the test and notify the institution and the test taker of the test results instead of forwarding the test to the publisher for scoring and notification. If the assessment center scores tests, it must provide a copy of the test takers' performances and test scores to the test publisher on at least an annual basis.

Changes: A new section, § 668.152, has been added to describe the role and responsibilities of an assessment center.

Proposed § 668.151 Agreement Between the Institution and a Certified Test Administrator

Comments: One commenter recommended that, as part of this agreement, the institution must keep complete records of all testing activity conducted by a test administrator on its behalf, including situations in which testing was not completed.

Discussion: The purpose of the regulatory scheme regarding test administration is to remove institutions from giving or scoring tests. Therefore, the Secretary disagrees with the commenter's recommendation.

Changes: The agreement between an institution and a test administrator in § 668.151 has been deleted, as has the section dealing with this relationship. However, the important aspects of this section relating to the integrity and independence of test administration were incorporated into § 668.151 *Test administration*.

Section 668.151 Administration of Tests (Section 668.152 in the NPRM)

Comments: A number of commenters objected to the proposed procedures for scoring tests by the test publishers in those cases in which "assessment centers" are not available. Those who objected claimed that the process was inequitable and would result in considerable delays in determining student eligibility. One commenter objected to the policy that allows repeated taking of tests on the grounds that repetition compromises the validity of the tests. Two commenters requested clarification about the roles of assessment centers with respect to recordkeeping, reporting of scores and background information on test takers to test publishers, and whether agreements between assessment centers and institutions that wish to use their services are required.