Office of the State Superintendent of Education
DISTRICT OF COLUMBIA
MAYOR ADRIAN M. FENTY

April 8, 2010

Thelma Melendez de Santa Ana, Ph.D.
Assistant Secretary for Elementary and Secondary Education
U.S. Department of Education
400 Maryland Avenue, SW
Washington, DC 20202

Dear Dr. Melendez de Santa Ana,

I am writing on behalf of the District of Columbia's Office of the State Superintendent of Education (OSSE) to request under section 9401 of the Elementary and Secondary Education Act, as amended, a one-year waiver of the Title I, Part A requirement that allows states to include the proficient and advanced scores of students with the most significant cognitive disabilities based on the alternate academic achievement standards only up to 1.0 percent of the total tested population (34 CFR §200.13(c)(2)(i)). OSSE requests that it be allowed to include the proficient and advanced scores of students with the most significant cognitive disabilities based on alternate academic achievement standards up to 1.2 percent of the total tested population.

In the past year, OSSE has taken steps to ensure that only students with the most significant cognitive disabilities are participating in the alternate assessment based on alternate achievement standards. In October 2009, OSSE released new, more specific criteria for participation; as a result, every local education agency (LEA) re-evaluated every student with disabilities for participation in the DC CAS-Alt, our alternate assessment based on alternate academic achievement standards. OSSE released guidance on the new participation criteria (enclosed) and this spring and summer will audit the registration process to ensure that only students with the most significant cognitive disabilities are taking the DC CAS-Alt. These new criteria have resulted in a 21 percent reduction in the number of students taking the DC CAS-Alt in school year (SY) 2009-10 compared with SY 2008-09.

The U.S. Department of Education's August 2005 non-regulatory guidance estimates that, nationally, about 9 percent of students with disabilities have significant cognitive disabilities. The District of Columbia assessed 9.4 percent of its students with disabilities on the DC CAS-Alt in SY 2008-09. Based on registration for the SY 2009-10 DC CAS-Alt, 7.7 percent of students with disabilities will be assessed with the DC CAS-Alt. Thus, the District of Columbia does not have a disproportionate percentage of students with disabilities participating in the DC CAS-Alt.

In SY 2008-09, the District of Columbia exceeded the cap by .5 percent and adjusted the scores of over 100 students when calculating adequate yearly progress (AYP). Despite the decrease in the percentage of students taking the DC CAS-Alt in SY 2009-10, OSSE anticipates exceeding the 1.0 percent cap again this year. Based on proficiency rates for 2009, OSSE anticipates that 1.2 percent of all tested students will score proficient or advanced on the 2010 DC CAS-Alt.

In accordance with section 9401(b)(3)(A)(i) and (ii), OSSE released a draft of this waiver request for LEA comment and all comments received are included with this letter. OSSE also has, pursuant to 9401(b)(3)(A)(iii), provided notice and information to the public regarding this waiver request in the

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manner in which OSSE customarily provides notice and information, which is through posting on the OSSE Web site.

For the reasons outlined above, OSSE requests this waiver of 34 CFR §200.13(c)(2)(i) for AYP determinations based on assessments administered in SY 2009-10. OSSE requests permission to include in AYP determinations the actual achievement of all students who take the DC CAS-Alt, including those scoring proficient or above up to a cap of 1.2 percent of all students assessed. In order to make 2010 AYP determinations on a timeline that complies with the 14-day public school notice requirement, we would appreciate a response from you by June 11, 2010. If you have questions or require additional information, please contact Liz Cohen at (202) 481-3848 or elizabeth.cohen@dc.gov.

Sincerely,

Cathie Carothers
Assistant Superintendent
Elementary and Secondary Education

Enclosures

Enclosure 1: Guidance on Participation and Registration for the DC CAS-Alt

Available online at: ***http://osse.dc.gov/seo/frames.asp?doc=/seo/lib/seo/OSSE_Alternate_Assessment_Guidance_November_2009.pdf***

District of Columbia Office of the State Superintendent of Education Guidance on Participation and Registration for the DC CAS Alternate Assessment November 2009

The DC CAS Alternate Assessment (DC CAS Alt) is an alternate assessment on alternate achievement standards intended for students with significant cognitive disabilities. The purpose of this document is to clarify information provided to LEAs regarding registration and participation in the DC CAS Alternate Assessment. OSSE welcomes additional questions on this topic. Additional questions should be addressed to Joshua Boots, Office of Assessment and Accountability, Division of Elementary and Secondary Education (Joshua.boots@dc.gov).

1. *Why does OSSE provide participation criteria for the DC CAS Alt?*
2. *Why did OSSE put out new participation criteria?*
3. *How are LEAs expected to implement the new participation criteria recently released by OSSE and included in the Teacher's Manual?*
4. *How are IEP Teams intended to answer Participation Criteria Question 4 (functional skills)? Must students require explicit and ongoing instruction in all ten areas of functional skills?*
5. *Are students required to have a specific disability classification in order to be eligible for the DC CAS Alternate Assessment?*
6. *Who decides whether a student is eligible for the DC CAS Alt?*
7. *What happens if a student is found ineligible?*
8. *What does it mean to invalidate an assessment?*
9. *When will a school be notified if a student is ineligible for the DC CAS Alt?*
10. *What happens if a student who needs to participate in the DC CAS Alt arrives at my school or is identified after February 1, 2010?*

1. *Why does OSSE provide participation criteria for the DC CAS Alt?*

The U.S. Department of Education states that "it is the State's responsibility to define which students have the most significant cognitive disabilities. It also is the State's responsibility to establish clear and appropriate guidelines for IEP teams to use when deciding if an alternate assessment based on alternate achievement standards is justified for an individual child. These guidelines should provide parameters and direction..." (*Alternate Achievement Standards for Students With the Most Significant Cognitive Disabilities,* Non-Regulatory Guidance, U.S. Department of Education, August 2005). OSSE provides participation criteria in order to fulfill this State responsibility.

2. *Why did OSSE put out new participation criteria?*

OSSE released new participation criteria for several reasons. The new participation criteria clarify which students are eligible for the DC CAS Alt, which only yields valid and reliable results for eligible students. Second, it is the responsibility of the State to provide IEP teams with guidance and information to assist the IEP in making decisions regarding eligibility for the DC CAS Alt. The new participation criteria should assist IEP teams in more clearly understanding which students are eligible for the DC CAS Alt.

3. *How are LEAs expected to implement the new participation criteria recently released by OSSE and included in the Teacher's Manual?*

The new participation criteria effectively supplant any previous decision made about assessment participation for a student. In other words, for every student currently slated to participate in the DC CAS Alt, the IEP team must reconsider that decision based on the new criteria. There are two ways in which this reconsideration may occur. The first is that the IEP team may convene a new meeting to review the new participation criteria. The second is that, after the annual IEP Team meeting for the school year, if the parent agrees to not convene an IEP team meeting, an IEP amendment may be created to reflect the consideration of the new participation criteria, and the decision made as a result of considering the new participation criteria. The option to create an IEP amendment without convening an IEP team meeting is the choice of the parent. Parents must be given the option to hold a new team meeting.

In determining whether to convene the IEP team or make an IEP amendment without convening an IEP team meeting, OSSE recommends that LEAs instruct a school based member of the IEP team to review the participation criteria alongside pertinent data about the student. A conversation should then be held with the parent about the school's review of the participation criteria along with pertinent data about the student and the school may then make a recommendation to the parent on whether the student should remain on the Alternate Assessment or move to the general assessment. The parent and school based member of the IEP team may then decide whether or not the IEP team must reconvene to review the new participation criteria. If the parent and school agree that the IEP team need not reconvene, but that the student should move to the general assessment, then the IEP must be amended, in writing, to reflect this change and the student's IEP team must be informed of this amendment to the IEP. If the IEP is revised by convening the IEP Team or without convening the IEP team, a prior written notice must be issued. In either case, the parent must sign the participation criteria form, which must then be uploaded to SEDS.

4. *How are IEP Teams intended to answer Participation Criteria Question 4 (functional skills)? Must students require explicit and ongoing instruction in all ten areas of functional skills?*

The question has been revised and now reads as follows: Does the student require explicit and ongoing instruction in functional skills? An evaluation of the instruction in functional skills requires a holistic view of the child including whether the child receives instruction in Communication, Self Care & Self Direction, Home Living, Social and Interpersonal Skills, Use of Community Resources, Functional Academic Skills, Work and Leisure, and/or Health and Safety. The student's IEP and course of study must reflect such need and curriculum.

More generally, students must receive instruction in functional skills in order to be eligible for the DC CAS Alt. A student with no need for functional skills instruction is likely not a student with a significant cognitive disability. However, students are not required to receive explicit instruction in all ten areas. It is expected that most areas would be addressed, and it is important the IEP team consider whether a student requires support in all areas when determining how a student will access curriculum and assessments.

If the IEP team can clearly answer, "Yes" to the question "Does the student require explicit and ongoing instruction in functional skills", then the answer to Participation Criteria Question 4 is "Yes".

5. *Are students required to have a specific disability classification in order to be eligible for the DC CAS Alt?*

No. Decisions about assessments or accommodations are to be made on the basis of individual student characteristics, not labels. A student must have a significant cognitive disability in order to be eligible for the DC CAS Alt. Importantly, a student whose accurate primary disability is LD (learning disabled) should almost never participate in the DC CAS Alt. Learning disabilities by nature preclude a cognitive disability. If a student has a cognitive disability and is given a primary disability of LD, that disability label should be reexamined.

6. *Who decides whether a student is eligible for the DC CAS Alt?*

OSSE determines eligibility criteria but it is up to IEP teams to determine how students participate in the statewide assessment system. However, IEP teams should always select an assessment that will yield a valid score. OSSE will review the information provided on the participation criteria form to ensure the documentation is sufficient for students determined eligible for the DC CAS Alt. OSSE may inform the LEA that the documentation is insufficient, at which point the school may submit additional documentation demonstrating that the student has a significant cognitive disability.

7. *What happens if a student is found ineligible?*

Insufficient documentation will result in OSSE's determination that a student is ineligible for the DC CAS Alt for purposes of accountability only. If a student who does not have a significant cognitive disability participates in the DC CAS Alt the student's assessment will be invalidated.

8. *What does it mean to invalidate an assessment?*

If a student who does not have a significant cognitive disability participates in the DC CAS Alt, that student will not have a valid assessment result. Declaring a test score invalid means that it does not provide information that can be used to understand how the student is achieving, and it means that the student will be counted as a non-participant in the assessment for the purposes of accountability under the Elementary and Secondary Education Act, as amended by the No Child Left Behind Act of 2001.

9. *When will a school be notified if a student is ineligible for the DC CAS Alt?*

After registration closes and OSSE reviews documentation associated with registered students, a school may be notified by OSSE that a student is ineligible for the DC CAS Alt for accountability purposes. This will take place in late December/early January. If a student is found ineligible for the DC CAS Alt, and a portfolio is submitted for that student, the portfolio will be scored but the student will not count as having participated in the assessment for the purposes of accountability.

10. *What happens if a student who needs to participate in the DC CAS Alt arrives at my school or is identified after February 1, 2010?*

If that student transfers from another school or LEA within the District of Columbia, the student should already be registered for the DC CAS Alt. If the student transfers from another state and is not registered, please contact OSSE's Assessment and Accountability Office. With the exception of transfer students from another state, it should almost never occur that a student enrolled at your school is identified for the DC CAS Alt late in the year. A student who previously participated in the general DC CAS should almost never be moved to the DC CAS Alt. In the rare instance in which this situation arises, please contact OSSE's Assessment and Accountability Office.

Enclosure 2: LEA Comments

-----Original Message-----
From: McGoldrick, Erin D. (OOC) [mailto:erin.mcgoldrick@dc.gov]
Sent: Thursday, March 25, 2010 9:28 PM
To: OSSE Public Comment (OSSE)
Subject: DCPS comments on 1% waiver request

Dear Assistant Superintendent Carothers,

The District of Columbia Public Schools (DCPS) strongly supports the Office of the State Superintendent of Education's (OSSE) request for a waiver of 34 CFR §200.13(c)(2)(i). If granted, this waiver would provide all students in DC with the same opportunity to be assessed in a manner appropriate for their individual needs and participate in the statewide assessment and accountability system. This would result in a more valid, inclusive system of accountability and provide more accurate information to accelerate student growth.

This year DCPS implemented OSSE's guidelines to clearly identify those students for whom the alternate assessment is the only appropriate, valid measure of achievement. DCPS encourages the OSSE to ensure that the cap requested would allow the District of Columbia to recognize the proficiency of all students who are validly assessed. Whether validly assessed with the DC CAS or with the DC CAS Alternative, all students should have the same opportunity to have their proficiency represented in a statewide system of accountability.

Thank you for all your efforts on behalf of DC students,

Erin McGoldrick
Chief, Office of Data and Accountability

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