

Requirement to Test Students on Statewide Assessments

ISSUE: The ability to refuse to participate in statewide assessments has come under question. This document provides the legal requirements for districts and schools to test all students.

CURRENT SITUATION: Standardized student assessments are required to be administered in Alaska public schools under both state and federal law for purposes of school and district accountability and measuring student achievement. They are not associated with student grades or promotions.

STATE LAW: Alaska state regulations require school districts to test all students and do not allow a school or district to systematically exclude students.

4 AAC 06.737. Standards-based test ... Except for students eligible for an alternate assessment under 4 AAC 06.775(b), each district shall administer the standards-based test in reading, writing, and mathematics annually to every student in grades 3 through 10, and each district shall administer the standards-based test in science annually to every student in grades 4, 8, and 10.

4 AAC 06.820. Participation... (b) A school or district may not systematically exclude students from assessment.

FEDERAL LAW: Federal law requires states that receive funds under Title I, Part A of the Elementary and Secondary Education Act (ESEA) to implement assessments in each school district that include math, reading or language arts, and science. Assessments must be implemented in grades 3-8 and in at least one high school grade in grades 10-12 for reading/language arts and math. A science assessment must be administered at least once in grades 3-5, 6-9, and 10-12. Alaska administers science assessments in grades 4, 8, and 10.

The act requires that the state assessments must provide for the participation of all students in the tested grades. Districts and schools that do not receive Title I funds are still required to administer assessments to all of their students.

POTENTIAL US ED ACTION: If a state education agency (SEA) fails to comply with the assessment requirements in ESEA, the U.S. Department of Education (US ED) has a range of enforcement actions it can take. These include:

- sending a letter to the SEA requesting that it come into compliance;
- increasing monitoring;
- placing a condition on the SEA's Title I, Part A grant award or its ESEA flexibility request;
- placing the SEA on high-risk status (34 C.F.R. § 80.12);
- issuing a cease and desist order (GEPA section 456 (20 U.S.C. § 1234e));
- entering into a compliance agreement with the SEA to secure compliance (GEPA 457 (20 U.S.C. § 1234f));

- withholding all or a portion of the SEA's Title I, Part A administrative funds (ESEA section 1111(g)(2) (20 U.S.C. § 6311(g)(2)));
- and suspending, and then withholding, all or a portion of the state's Title I, Part A programmatic funds (GEPA section 455 (20 U.S.C. § 1234d)).

An SEA, such as the Department of Education & Early Development (EED), has similar enforcement actions available to it with respect to noncompliance by a school district, including withholding a district's Title I, Part A funds. *See, e.g.*, GEPA section 440 (20 U.S.C. § 1232c(b)).

In addition, EED or a school district could find itself out of compliance with a wide range of additional federal programs that rely on statewide assessment results, putting additional funds at risk.

These additional programs include, but are not limited to:

- the School Improvement Grants (SIG) program;
- ESEA Title III (language instruction for English language learners);
- Part B of the Individuals with Disabilities Education Act (IDEA);
- programs for rural schools under ESEA Title VI;
- migrant education under ESEA Title I, Part C;
- and programs focused on professional development and other supports for teachers, such as ESEA Title II.

STUDENT DATA: Regarding concerns related to the sharing of personally identifiable information, EED does not submit individual-level data to the US ED.