

## § 200.21

(1) The percentage of students in that group below the State's proficient achievement level decreased by at least 10 percent from the preceding year; and

(2) That group made progress on one or more of the State's academic indicators under §200.19 or the LEA's academic indicators under §200.30(c).

(c)(1) A school or LEA makes AYP if—

(i) Not less than 95 percent of the students enrolled in each group under §200.13(b)(7) takes the State assessments under §200.2; and

(ii) The group is of sufficient size to produce statistically reliable results under §200.7(a).

(2) The requirement in paragraph (c)(1) of this section does not authorize a State, LEA, or school to systematically exclude 5 percent of the students in any group under §200.13(b)(7).

(3) If a student takes the State assessments for a particular subject or grade level more than once, the State must use the student's results from the first administration to determine AYP.

(d) For the purpose of determining whether a school or LEA has made AYP, a State may establish a uniform procedure for averaging data that includes one or more of the following:

(1) *Averaging data across school years.*

(i) A State may average data from the school year for which the determination is made with data from one or two school years immediately preceding that school year.

(ii) If a State averages data across school years, the State must—

(A) Implement, on schedule, the assessments in reading/language arts and mathematics in grades 3 through 8 and once in grades 10 through 12 required under §200.5(a)(2);

(B) Report data resulting from the assessments under §200.5(a)(2);

(C) Determine AYP under §§200.13 through 200.20, although the State may base that determination on data only from the reading/language arts and mathematics assessments in the three grade spans required under §200.5(a)(1); and

(D) Implement the requirements in section 1116 of the ESEA.

(iii) A State that averages data across years must determine AYP on the basis of the assessments under

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§200.5(a)(2) as soon as it has data from two or three years to average. Until that time, the State may use data from the reading/language arts and mathematics assessments required under §200.5(a)(1) to determine adequate yearly progress.

(2) *Combining data across grades.* Within each subject area and subgroup, the State may combine data across grades in a school or LEA.

(e)(1) In determining the AYP of an LEA, a State must include all students who were enrolled in schools in the LEA for a full academic year, as defined by the State.

(2) In determining the AYP of a school, the State may not include students who were not enrolled in that school for a full academic year, as defined by the State.

(Authority: 20 U.S.C. 6311(b)(2), (b)(3)(C)(xi))

[67 FR 71717, Dec. 2, 2002]

### §200.21 Adequate yearly progress of a State.

For each State that receives funds under subpart A of this part and under subpart 1 of part A of Title III of the ESEA, the Secretary must, beginning with the 2004–2005 school year, annually review whether the State has—

(a)(1) Made AYP as defined by the State in accordance with §§200.13 through 200.20 for each group of students in §200.13(b)(7); and

(2) Met its annual measurable achievement objectives under section 3122(a) of the ESEA relating to the development and attainment of English proficiency by limited English proficient students.

(b) A State must include all students who were enrolled in schools in the State for a full academic year in reporting on the yearly progress of the State.

(Authority: 20 U.S.C. 7325)

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