

## § 200.32

improvement, corrective action, or restructuring believes, or a majority of the parents of the students enrolled in the school believe, that the proposed identification is in error for statistical or other substantive reasons, the principal may provide supporting evidence to the LEA.

(2) The LEA must consider the evidence referred to in paragraph (b)(1) of this section before making a final determination.

(c) The LEA must make public a final determination of the status of the school with respect to identification not later than 30 days after it provides the school with the opportunity to review the data on which the proposed identification is based.

(Approved by the Office of Management and Budget under control number 1810-0581)

(Authority: 20 U.S.C. 6316(b)(2))

[67 FR 71721, Dec. 2, 2002]

### § 200.32 Identification for school improvement.

(a)(1) An LEA must identify for school improvement any elementary or secondary school served under subpart A of this part that fails, for two consecutive years, to make AYP as defined under §§ 200.13 through 200.20.

(2) The LEA must make the identification described in paragraph (a)(1) of this section before the beginning of the school year following the year in which the LEA administered the assessments that resulted in the school's failure to make AYP for a second consecutive year.

(b)(1) An LEA must treat any school that was in the first year of school improvement status on January 7, 2002 as a school that is in the first year of school improvement under § 200.39 for the 2002-2003 school year.

(2) Not later than the first day of the 2002-2003 school year, the LEA must, in accordance with § 200.44, provide public school choice to all students in the school.

(c)(1) An LEA must treat any school that was identified for school improvement for two or more consecutive years on January 7, 2002 as a school that is in its second year of school improvement under § 200.39 for the 2002-2003 school year.

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(2) Not later than the first day of the 2002-2003 school year, the LEA must—

(i) In accordance with § 200.44, provide public school choice to all students in the school; and

(ii) In accordance with § 200.45, make available supplemental educational services to eligible students who remain in the school.

(d) An LEA may remove from improvement status a school otherwise subject to the requirements of paragraphs (b) or (c) of this section if, on the basis of assessments the LEA administers during the 2001-2002 school year, the school makes AYP for a second consecutive year.

(e)(1) An LEA may, but is not required to, identify a school for improvement if, on the basis of assessments the LEA administers during the 2001-2002 school year, the school fails to make AYP for a second consecutive year.

(2) An LEA that does not identify such a school for improvement, however, must count the 2001-2002 school year as the first year of not making AYP for the purpose of subsequent identification decisions under paragraph (a) of this section.

(f) If an LEA identifies a school for improvement after the beginning of the school year following the year in which the LEA administered the assessments that resulted in the school's failure to make AYP for a second consecutive year—

(1) The school is subject to the requirements of school improvement under § 200.39 immediately upon identification, including the provision of public school choice; and

(2) The LEA must count that school year as a full school year for the purposes of subjecting the school to additional improvement measures if the school continues to fail to make AYP.

(Authority: 20 U.S.C. 6316)

[67 FR 71721, Dec. 2, 2002]

### § 200.33 Identification for corrective action.

(a) If a school served by an LEA under subpart A of this part fails to make AYP by the end of the second full school year after the LEA has identified the school for improvement under

§ 200.32(a) or (b), or by the end of the first full school year after the LEA has identified the school for improvement under § 200.32(c), the LEA must identify the school for corrective action under § 200.42.

(b) If a school was subject to corrective action on January 7, 2002, the LEA must—

(1) Treat the school as a school identified for corrective action under § 200.42 for the 2002–2003 school year; and

(2) Not later than the first day of the 2002–2003 school year—

(i) In accordance with § 200.44, provide public school choice to all students in the school;

(ii) In accordance with § 200.45, make available supplemental educational services to eligible students who remain in the school; and

(iii) Take corrective action under § 200.42.

(c) An LEA may remove from corrective action a school otherwise subject to the requirements of paragraphs (a) or (b) of this section if, on the basis of assessments administered by the LEA during the 2001–2002 school year, the school makes AYP for a second consecutive year.

(Approved by the Office of Management and Budget under control number 1810–0576)

(Authority: 20 U.S.C. 6316)

[67 FR 71721, Dec. 2, 2002]

#### § 200.34 Identification for restructuring.

(a) If a school continues to fail to make AYP after one full school year of corrective action under § 200.42, the LEA must prepare a restructuring plan for the school and make arrangements to implement the plan.

(b) If the school continues to fail to make AYP, the LEA must implement the restructuring plan no later than the beginning of the school year following the year in which the LEA developed the restructuring plan under paragraph (a) of this section.

(Approved by the Office of Management and Budget under control number 1810–0576)

(Authority: 20 U.S.C. 6316(b)(8))

[67 FR 71721, Dec. 2, 2002]

#### § 200.35 Delay and removal.

(a) *Delay.* (1) An LEA may delay, for a period not to exceed one year, implementation of requirements under the second year of school improvement, under corrective action, or under restructuring if—

(i) The school makes AYP for one year; or

(ii) The school's failure to make AYP is due to exceptional or uncontrollable circumstances, such as a natural disaster or a precipitous and unforeseen decline in the financial resources of the LEA or school.

(2) The LEA may not take into account a period of delay under paragraph (a) of this section in determining the number of consecutive years of the school's failure to make AYP.

(3) Except as provided in paragraph (b) of this section, the LEA must subject the school to further actions as if the delay never occurred.

(b) *Removal.* If any school identified for school improvement, corrective action, or restructuring makes AYP for two consecutive school years, the LEA may not, for the succeeding school year—

(1) Subject the school to the requirements of school improvement, corrective action, or restructuring; or

(2) Identify the school for improvement.

(Authority: 20 U.S.C. 6316(b))

[67 FR 71721, Dec. 2, 2002]

#### § 200.36 Communication with parents.

(a) Throughout the school improvement process, the State, LEA, or school must communicate with the parents of each child attending the school.

(b) The State, LEA, or school must ensure that, regardless of the method or media used, it provides the information required by §§ 200.37 and 200.38 to parents—

(1) In an understandable and uniform format, including alternative formats upon request; and

(2) To the extent practicable, in a language that parents can understand.

(c) The State, LEA, or school must provide information to parents—

(1) Directly, through such means as regular mail or e-mail, except that if a