

June 1, 2005

Dr. Raymond Simon, Deputy Secretary  
Office of Elementary and Secondary Education  
United States Department of Education  
400 Maryland Avenue, SW  
Washington, D.C. 20202-6400

Dear Dr. Simon:

Pursuant to the May 10, 2005 guidance from the U.S. Department of Education regarding the amendment of state accountability plans, the North Dakota Department of Public Instruction hereby submits for consideration and approval amendments to the North Dakota Consolidated State Application Accountability Workbook, dated July 27, 2004.

In an effort to comply with all provisions of the *Elementary and Secondary Education Act* and to provide for a uniform state accountability system, the Department of Public Instruction seeks amendments to the North Dakota accountability plan related to the following issues:

- (1) the incorporation of an alternate assessment provision identified in federal guidance, dated May 10, 2005, affecting students with persistent cognitive disabilities, beginning with the 2004-05 school year;
- (2) the incorporation of a safe harbor provision for the state's secondary academic indicators, graduation and attendance, beginning with the 2004-05 school year; and
- (3) the one-year extension of the current graduation formula for the 2004-05 school year and a resulting one-year delay of the previously approved graduation formula, beginning with the 2005-06 school year.

The North Dakota Department of Public Instruction affixes to this letter, a draft of the State Accountability Workbook that presents the provisions proposed within this request. The North Dakota Department of Public Instruction agrees to submit to the U.S. Department of Education, following the review and negotiated revision of the elements provided herein, a final electronic Workbook with all amended annotations identified. The Department of Public Instruction stipulates to the administration of the state accountability system in accordance with the amendments provided as follows.

- (1) *The incorporation of an alternate assessment provision identified in federal guidance, dated May 10, 2005, affecting students with persistent cognitive disabilities, beginning with the 2004-05 school year.*

On May 10, 2005, U.S. Secretary of Education Margaret Spellings announced the details of a new policy designed to assist students with persistent cognitive disabilities to more appropriately participate in their state assessment and accountability system. Under this

policy a limited number of students with persistent cognitive disabilities, approximating two percent, will be allowed to have the results from alternate assessments classified as proficient when specifically based on alternate achievement standards. This provision is a policy separate from and in addition to the current regulation that allows up to one percent of all students being tested, i.e., those students with a significant cognitive disability, to have the results from alternate assessments classified as proficient based on alternate achievement standards. This proposed provision would apply to the 2004-05 school year calculations affecting adequate yearly progress decisions. This provision would apply statewide only to those schools, districts, or the State that would not have made adequate yearly progress solely based on the achievement of students with disabilities.

The Department of Public Instruction submits that the State is eligible to exercise the provision of applying a proxy-adjusted proficiency rate for students with disabilities, as outlined in the May 10, 2005 guidance.

Under this provision the State will calculate a proxy (i.e., a statewide proficiency rate constant) that will be applied to empirical proficiency rates to determine an adjusted proficiency rate of students with disabilities. This adjusted percent proficient is what will be used to reexamine if a school, district, or the State made adequate yearly progress for the 2004-05 school year. This adjusted proficiency rate will be derived through the following process.

1. The State will calculate what 2.0 percent of the total number of students assessed within the State equals solely within the students with disabilities subgroup, by dividing 2.0 by the percentage of students who have disabilities statewide. This number, which will be a constant for every school, will be the basis for flexibility in school adequate yearly progress determinations.
2. The State will identify all schools that did not make adequate yearly progress solely on the basis of the students with disabilities subgroup and the proficiency rate of those students in each school, district, and the State.
3. The State will calculate the adjusted percent proficient for the students with disabilities subgroup for each school, district, and the State. This adjustment is equal to the sum of the actual percent of proficient scores of this subgroup plus the proxy percent calculated in Step 1.
4. The State will compare this adjusted percent proficient to the state's annual measurable objective for each school identified in Step 2. This comparison will be conducted without the use of the state's binomial distribution reliability model.
  - a. If the adjusted proficiency rate for the students with disabilities subgroup for each school, district, or the State meets or exceeds the state's measurable objective, the school, district, or the State may be considered to have made adequate yearly progress for the 2004-05 school year.
  - b. If the adjusted proficiency rate for the students with disabilities subgroup for each school, district, or the State does not meet or exceed the state's annual measurable objective, then the school, district, or the State will not have made adequate yearly progress.

5. This process will be applied to reading and mathematics separately and will be applied to schools, districts, and the State.
6. The actual percent proficient will be reported to parents and the public; the State reserves the right to also report the adjusted percent proficient.

The Department of Public Instruction stipulates that the North Dakota assessment and accountability system has met all requirements as specified within Title I and Individuals with Disabilities Education Act regulations. The state's assessment system met full compliance through the 2003 peer review process and will undergo peer review again in November 2005. The Department of Public Instruction underwent Title I monitoring in May 2005 and initial, verbal communications indicate that the Department met associated accountability regulations. The Department of Public Instruction stipulates that it will abide by the established core principles identified within the May 10, 2005 guidance.

1. Statewide assessment participation rates for students with disabilities, for purposes of measuring adequate yearly progress, will remain at or above 95%. During the 2003-04 school year, the statewide students with disabilities participation rate equaled 98.05% in reading and 97.83% in mathematics. (Reference the following web address for the state report: <http://www.dpi.state.nd.us/dpi/reports/profile/0304/AYPState/aypstate2004.pdf>.);
2. Alternate assessments in reading/language arts and mathematics are available for students with disabilities who are unable to participate in the regular assessment even with accommodations (as required by the Individuals with Disabilities Education Act) and the State will report results to the Secretary and the public based on these alternate assessments in reading/language arts and mathematics;
3. Appropriate accommodations are available for the state assessment for students with disabilities;
4. The State stipulates that all students with disabilities will continue to be included in the state's assessment system. The Department of Public Instruction will cross-check that all identified special education students will be included in the statewide assessment file, as captured on the state's Online Reporting System. This system also monitors special education enrollment for payment purposes.

The Department of Public Instruction has previously submitted support data and narrative within the state's Consolidated Performance Report, which is available to the U.S. Department of Education, to establish the state's eligibility status. Following a review by the U.S. Department of Education on the state's eligibility status to receive this proposed provision, the Department of Public Instruction will submit additional evidence as identified within the "Sound State Education Policies" within the May 10, 2005 guidance.

The Department of Public Instruction has inserted amendments to Section 5.3 of the State Accountability Workbook that specify this proposed provision.

The Department of Public Instruction respectfully requests that the U.S. Department of Education grant the State permission to amend Section 10.2 within the State Accountability Workbook to include this provision.

- (2) *The incorporation of a safe harbor provision for the state's secondary academic indicators, graduation and attendance, beginning with the 2004-05 school year.*

The Department of Public Instruction proposes to adopt a safe harbor provision for determining adequate yearly progress for the secondary academic indicators, graduation and attendance. This safe harbor provision would reward districts that reported improvements in attendance rates for elementary and middle schools and graduation rates for high schools.

The Department of Public Instruction proposes to amend Section 7.3 of the State Accountability Workbook to grant safe harbor status to any high school that evidences improvement in its graduation rate, or to any elementary or middle school that evidences improvement in its attendance rate from the previous reporting period.

If a high school whose calculated graduation rate is below the state-defined measurable objective, as determined by the method prescribed in Section 7.1, reports sufficient improvement in the graduation rate to meet the terms of safe harbor, then the high school will be identified as having made adequate yearly progress for the graduation rate. Safe harbor for the graduation rate is defined as a ten percent reduction in the not-graduated rate.

If an elementary or middle school whose calculated attendance rate is below the state-defined measurable objective, as determined by the method prescribed in Section 7.2, reports sufficient improvement in the attendance rate to meet the terms of safe harbor, then the elementary or middle school will be identified as having made adequate yearly progress for the attendance rate. Safe harbor for the attendance rate is defined as a ten percent reduction in the absence rate.

No statistical significance test will be conducted during the calculation of safe harbor. The safe harbor provision for graduation and attendance will be applied in the determination of adequate yearly progress for schools, school districts and the State.

The Department of Public Instruction respectfully requests that the U.S. Department of Education grant the State permission to amend Section 7.3 within the State Accountability Workbook to include this provision.

- (3) *The one-year extension of the current graduation formula for the 2004-05 school year and a resulting one-year delay of the previously approved graduation formula, beginning with the 2005-06 school year.*

During the 2004-05 school year, North Dakota initiated the administration of fall testing statewide at all grade levels, grades 3-8 and 11. The State adopted a fall testing schedule to ensure the timely scoring and reporting of student achievement data within the same school year.

The State similarly seeks to use the fall testing schedule to push forward the determination of adequate yearly progress to the spring of the same school year. The State currently conducts the determination and reporting of adequate yearly progress for schools, districts, and the State throughout July and August. The current determination cycle results in a truncated reporting schedule that performs a disservice to all patrons. Any determination that is conducted in the spring of the same school year will improve the reporting cycle and thereby better meet reporting requirements placed on schools, districts, and the State.

The administration of fall testing allows for the determination of student achievement indicators for adequate yearly progress, perhaps as soon as March of the same school year; however, the determination of graduation and attendance indicators, which are based on pupil membership data collected no sooner than June 30 of the school year, will not allow for any earlier reporting. To accommodate the need for earlier reporting, the State must transition from current-year to previous-year pupil membership data.

Therefore, the Department of Public Instruction seeks permission to extend the previously approved secondary academic indicators formula for one additional year, to apply for 2004-05 determinations, in order to transition into previous-year data determinations during the spring of the 2005-06 school year. Effective during the 2005-06 school year, the determination of graduation and attendance adequate yearly progress indicators will be referenced to graduation and attendance rates of the preceding year. Graduation and attendance rates will be generated from pupil membership data collected from the June 30 pupil membership reports submitted by schools and districts. Adequate yearly progress determinations will be conducted during the spring of the school year.

#### *Graduation Indicator*

To determine adequate yearly progress graduation indicator for 2004-05, the State will calculate graduation rates according to the current definition, which has been applicable for determinations for 2001-04, within Section 7.1 of the State Accountability Plan. The State will delay the implementation of the anticipated graduation rate formula, originally set for implementation for 2004-05, until the 2005-06 school year. At that point determinations will be referenced on graduation data collected on June 30 of the previous year and will allow for the disaggregated reporting of subgroups as stipulated in the State Accountability Plan.

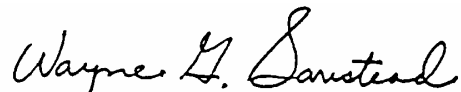
#### *Attendance Indicator*

To determine adequate yearly progress attendance indicator for 2004-05, the State will calculate attendance rates according to the current definition within Section 7.2 of the State Accountability Plan. To allow for a successful transition to previous year reporting, attendance rate determinations for 2004-05 will reference data collected on June 30, 2004. This will result in 2004-05 attendance determinations that are identical to the 2003-04 attendance determinations; however, no school or district will be held to a double-jeopardy effect. Schools previously identified in 2003-04 as not making adequate yearly progress for attendance will be held harmless with any subsequent 2004-05 identification. All reports will indicate that the attendance data references previous year data; no "did not make adequate yearly progress" designations will be reported. Effective for the 2005-06 school year, determinations will be referenced on attendance data collected on June 30 of the previous year, data that would not have been previously reported.

The Department of Public Instruction respectfully requests that the U.S. Department of Education grant the State permission to amend Sections 7.1 and 7.2 within the State Accountability Workbook to include these provisions.

On behalf of the North Dakota Department of Public Instruction and, indeed, all the public school districts within the State, I submit this formal request for the amendment of the North Dakota Accountability Workbook. I submit this proposal for your considered review and final approval. The Department makes its staff available to address any questions you might have regarding its provisions. I commend the U.S. Department of Education staff for its dedication and diligence in advancing the administration of the Act and making efforts to provide appropriate expression to its many challenging elements nationwide. I wish you well and look forward to receiving your approval to these requests in the near future.

Sincerely,

A handwritten signature in cursive script that reads "Wayne G. Sanstead".

Dr. Wayne G. Sanstead  
State Superintendent

Attachment: State Accountability Workbook