

November 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 existing guidance from the U.S. Department of Education regarding the amendment of state accountability plans, the North Dakota Department of Public Instruction submits for consideration and approval amendments to the North Dakota Consolidated State Application Accountability Workbook, dated July 1, 2005.

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 issue:

- Amend Section 4.1 to establish 2006-07 as the year in which the State incorporates, for the purposes of determining adequate yearly progress, student achievement results from the North Dakota State Assessments for grades 3, 5, 6, and 7 for all public schools, public school districts, and the State in order, to ensure that the State provides for a valid and reliable accountability system;

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 herein.

From 2001-2004, the North Dakota State Assessment measured and reported student achievement in both reading and mathematics, for the purposes of determining adequate yearly progress, in grades 4, 8, and 12. In 2004-05 the State expanded and improved the North Dakota State Assessment to measure and report student achievement in grades 3-8 and 11 in reading and mathematics. The current 2005-06 school year represents the second year during which the North Dakota State Assessment has been administered statewide to all public school students in grades 3-8 and 11. The development and rollout cycle of the North Dakota State Assessment has been reported previously to the US Department of Education in the North Dakota Consolidated Application, Consolidated Report, and State Accountability Workbook.

Section 4.1 of the North Dakota State Accountability Workbook, page 39, states that student achievement results in reading and mathematics in grades 4, 8, and 11 will be referenced to determine adequate yearly progress for each public school, public school district, and the State. Section 9.1 of the North Dakota State Accountability Workbook, page 64, provides for multi-year averaging of student achievement data, which the State has set as three years rolling average data, to ensure reliability in all determinations of adequate yearly progress.

With the administration of the North Dakota State Assessment in 2005-06, North Dakota will have two cumulative years of student achievement data in grades 3-8 and 11. Two cumulative years of data falls short of the three-year averaging of student achievement data required within the State's Accountability Workbook. North Dakota will not be able to provide for three full years of data until the administration of the North Dakota State Assessment in 2006-07.

Therefore, to meet the State's obligation to provide for both a valid and reliable accountability system, the North Dakota Department of Public Instruction requests that the US Department of Education grant permission for the State to initiate the reference of cumulative student achievement data in grades 3-8 and 11 beginning in 2006-07 to determine adequate yearly progress. The State will continue to determine adequate yearly progress by referencing student achievement data in grades 4, 8, and 11 during 2005-06.

The State predicates its request on the following provisions:

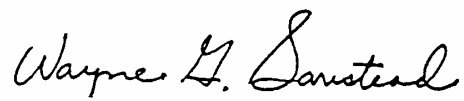
- Section 1111(b)(2)(J)(ii) of the Act: "Until the assessments described in paragraph (3) are administered in such a manner and time to allow for the implementation of the uniform procedure for averaging data described in the clause (i), the State may use the academic assessments that were required under paragraph (e) as that paragraph was in effect on the day preceding the date of enactment of the No Child Left Behind Act...."
- Section 200.20(d)(1)(ii) of the Regulations: "(B) Report data resulting from the assessment under section 200.5(a)(2)" and "(iii) A State that averages data across years must determine AYP on the basis of the assessments under section 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 or language arts and mathematics assessments required under section 200.5(a)(1) to determine adequate yearly progress."

These references imply that until the State can ensure a reliable determination of adequate yearly progress with any new grade configuration (i.e., grades 3-8 and 11) employing a three-year rolling average rule, the State will use the established grade configuration (i.e., grades 4, 8, and 11). The North Dakota Department of Public Instruction seeks to include this amendment within the State's Accountability Workbook. The Department seeks this amendment to provide for the consistent application of the State's three-year rolling average rule, to maintain public confidence in the uniform administration of the State's accountability reports, and to ensure that the State meets its obligation to attain the high standards of a valid and reliable accountability system.

The Department of Public Instruction respectfully requests that the U.S. Department of Education grant the State permission to amend Section 4.1 within the State Accountability Workbook, page 39, to include this provision.

I submit this amendment to the North Dakota Accountability Workbook 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