

TITLE 210. STATE DEPARTMENT OF EDUCATION

CHAPTER 10. SCHOOL ADMINISTRATION AND INSTRUCTIONAL SERVICES

SUBCHAPTER 13. STUDENT ASSESSMENT AND SCHOOL ACCOUNTABILITY

210:10-13-2. Oklahoma School Testing Program (OSTP) scope and general administration [AMENDED]

(a) **Definitions.** In this Section, the words and terms shall have the following meaning:

"Proficient/Satisfactory" means achieving at least the minimum score for demonstrating mastery as defined by the State Board of Education on an academic achievement test of the Oklahoma School Testing Program (OSTP).

(b) All public school districts shall administer the state mandated academic achievement tests of the OSTP to all students enrolled in the designated grades. The series of tests shall be field-tested/implemented by the amended schedule in 70 O.S. § 1210.508, or federal law.

(1) Students with Individualized Education Programs (IEPs) shall have an appropriate statement on the IEP with regard to the type of assessment in which the student will participate (e.g., Oklahoma Core Curriculum Test (OCCT) with or without accommodations, or the Oklahoma Alternate Assessment Program (OAAP) Portfolio). The OCCT and OAAP Portfolio are all a part of the Oklahoma School Testing Program (OSTP). Any state approved accommodations must be documented in the student's current IEP. Current documentation for each student shall be on file in the local school prior to test administration.

(2) All students who have been determined to be limited English proficient (LEP) as the term is defined at 20 U.S.C. § 7801, also known as English language learners (ELL), shall be included in all of the state-mandated academic achievement tests of the OSTP. ELL students are those who have been appropriately identified, through English proficiency screening by the local school districts, as requiring specialized instructional services designed to increase their English proficiency and academic performance. For every student identified as ELL, the local district shall have on file verification that the student is receiving special instruction designed for the specific purpose of improving the ELL student's English proficiency. Any State Department of Education approved and adopted English proficiency assessment shall be considered an official assessment of the OSTP, and will be subject to the same security, privacy, and administration measures accorded to all other OSTP assessments.

(A) Students identified as ELL shall be assessed in a valid and reliable manner with the state academic assessments with acceptable accommodations as necessary and, to the extent practicable, with alternate assessments aligned to the state assessment provided by the local school district in the language and form most likely to yield accurate data on what such students know and can do in these content areas; these alternate assessments will continue until such students have

achieved English language proficiency with the exception noted in paragraph (2)(B) of this subsection.

(B) If ELL students are administered the state-mandated reading and language arts achievement tests in a language other than English, this will be allowed only during their first three consecutive years of school attendance in the United States (not including Puerto Rico). After these first three years these tests must be administered in English, except that if the local school district determines on a case-by-case basis, that a student has not yet reached a level of English language proficiency that will allow valid and reliable information to be obtained, even with testing accommodations, in which case individual waivers will be allowed by the local district for up to two additional consecutive years, according to federal law.

(c) On an annual basis, school superintendents or their designees shall provide a copy of the State Board of Education Rules, OAC 210:10-13, for all school personnel responsible for receipt, inventory, distribution, or return of tests documents, and/or for administration of tests within the Oklahoma School Testing Program.

(d) Districts may request special reports beyond those provided by state contract with the testing company at their own cost (i.e., individual student records on CD or disk, District Title I Report, District Alpha Order Report, etc.).

~~(e) Test results of all students not enrolled in a district for a full academic year shall be disaggregated and shall not be used to determine the progress of the district, according to federal law. Test results of all students not enrolled in a school site for a full academic year shall be disaggregated and shall not be used to determine the progress of the school site, according to federal law. For purposes of the OSTP, a student shall be considered a "Full Academic Year" (FAY) student if the student is enrolled within the first twenty (20) instructional days of the school's instructional year through and including the date of administration of the exam, without an enrollment lapse of ten (10) or more consecutive instructional days.~~

(e) Each public school student who does not score at least at the satisfactory level on state criterion-referenced tests in reading and mathematics by the end of the student's seventh grade year shall be provided remediation for the purpose of assisting the student in performing at least at the satisfactory level on the eighth-grade criterion-referenced tests in reading and mathematics, subject to the availability of funding.

(1) Districts and/or schools may provide remediation through extended instructional time during the school day, a summer academy, tutoring, online coursework, or other supplementary services. Remediation is not limited to these practices.

(2) Remediation provided shall be under the supervision of a teacher certified in the appropriate content area.

(3) The State Department of Education shall provide information about best practices for remediation and interventions on the State Department of Education website.

(4) Each district shall submit an annual remediation plan to its local board of education at a regularly scheduled meeting prior to November 15 of each school year. The remediation plan shall be for those students who do not attain at least a satisfactory or proficient score on the tests listed in this section. The plan should include how remediation funds will be spent, when and where remediation will be provided, what content will be addressed, how instruction will be delivered, and who will provide the instruction, including the highly qualified status of the instructor.

(5) Funds for remediation shall be utilized to provide intervention and remediation for qualifying students as described in this section. Allowable expenditures include salaries and stipends for highly qualified teachers and tutors under the supervision of highly qualified teachers; instructional materials such as textbooks, workbooks, teacher-made materials, computer assisted instructional software, manipulatives, and classroom instructional tools necessary to provide remediation; assessments designed to monitor the progress of students in remediation programs; transportation to and from tutoring sessions held outside of the school day; and training in best practices for providing remediation. Funds for remediation may not be used for salaries, materials, or administrative services not directly related to remediation or for students who do not qualify for remediation as described in this section.

(6) School districts shall report the use of remediation funds and the results of the remediation, as measured by periodic progress assessments and district student performance on state assessments. Districts shall submit an online report annually to the State Department of Education through the Oklahoma School District Reporting Site (SDRS). The district shall also submit the annual report to its local board of education at a regularly scheduled meeting. Remediation results shall be presented by a designated public school principal for each site.

~~(f) For purposes of the annual reports of the OSTP, test results of all students who have been placed in a state juvenile facility by state law or court order, or students placed in a full time residential facility providing educational services to students by joint agreement with one or more school districts shall not be used to determine the progress of the site or the district of residence of the students. Instead their scores will be used in accountability calculations in one statewide "quasi-district".~~

~~(g) Each public school student who does not score at least at the satisfactory level on state criterion referenced tests in reading and mathematics by the end of the student's seventh grade year shall be provided remediation for the purpose of assisting the student in performing at least at the satisfactory level on the eighth grade criterion referenced tests in reading and mathematics, subject to the availability of funding.~~

~~(1) Districts and/or schools may provide remediation through extended instructional time during the school day, a summer academy, tutoring, online coursework, or other supplementary services. Remediation is not limited to these practices.~~

~~(2) Remediation provided shall be under the supervision of a teacher certified in the appropriate content area.~~

~~(3) The State Department of Education shall provide information about best practices for remediation and interventions on the State Department of Education website.~~

~~(4) Each district shall submit an annual remediation plan to its local board of education at a regularly scheduled meeting prior to November 15 of each school year. The remediation plan shall be for those students who do not attain at least a satisfactory or proficient score on the tests listed in this section. The plan should include how remediation funds will be spent, when and where remediation will be provided, what content will be addressed, how instruction will be delivered, and who will provide the instruction, including the highly qualified status of the instructor.~~

~~(5) Funds for remediation shall be utilized to provide intervention and remediation for qualifying students as described in this section. Allowable expenditures include salaries and stipends for highly qualified teachers and tutors under the supervision of highly qualified teachers; instructional materials such as textbooks, workbooks, teacher-made materials, computer-assisted instructional software, manipulatives, and classroom instructional tools necessary to provide remediation; assessments designed to monitor the progress of students in remediation programs; transportation to and from tutoring sessions held outside of the school day; and training in best practices for providing remediation. Funds for remediation may not be used for salaries, materials, or administrative services not directly related to remediation or for students who do not qualify for remediation as described in this section.~~

~~(6) School districts shall report the use of remediation funds and the results of the remediation, as measured by periodic progress assessments and district student performance on state assessments. Districts shall submit an online report annually to the State Department of Education through the Oklahoma School District Reporting Site (SDRS). The district shall also submit the annual report to its local board of education at a regularly scheduled meeting. Remediation results shall be presented by a designated public school principal for each site.~~

210:10-13-18. Oklahoma School Accountability System [AMENDED]

(a) **Academic performance targets.** The Oklahoma School Accountability System shall be based on a multimeasures approach to accountability in accordance with the *Elementary and Secondary Education Act of 1965* (ESEA) as reauthorized by P.L. No. 114-95, also known as the *Every Student Succeeds Act* (ESSA), and shall include the indicators set forth in 70 O.S. § 1210.545. All public elementary and secondary schools and local educational agencies (LEAs) shall be accountable for student achievement and for reaching academic performance targets in accordance with the Oklahoma School Accountability System required by 70 O.S. § 1210.541.

(b) Consequences of testing irregularities or misconduct on test scores and academic performance targets.

(1) If the State Department of Education (OSDE) Office of Assessments receives documentation of a student cheating on a test, the student's score shall be "invalidated." The student's score report for that content area shall read "Invalidated." The "invalidated" score shall have the effect of nonparticipation when aggregated with scores of other students at the school, district, and state levels, unless the student is administered a breach test form.

(2) If a student does not attempt the test (such as refusal to read items or mark answers, finishing in 5 minutes, or randomly marking answers), no special action shall be taken. The student's test shall be scored and the score aggregated with the rest of the scores at the school, district, and state levels according to standard procedure.

(3) If a student becomes ill during testing and is not able to complete the test, the test shall not be scored and not counted in the summary scores. The student shall be counted as absent. If a breach form of the test is available through the Oklahoma School Testing Program (OSTP), the student may be given an opportunity to retake the same form within the same testing window.

(4) If any violation of security provisions occurs, such violations shall be reported in writing to the State Department of Education Office of Assessments and may result in a student's, a school site's, and/or a school district's test scores being declared as invalid in accordance with the provisions of 210:10-13-4.

(A) In the case of invalidation resulting from a violation of the provisions of 210:10-13-4, each invalidated score shall be equivalent to non-participation in the assessment and shall be aggregated with the remaining student scores at the school, district, and state levels in determining participation rates.

(B) If the violation is not the fault of the students involved, and if a breach form of the test is available through the OSTP, students may be given the breach form within the same testing window. In the case that a breach equivalent form is administered, the individual student score report shall reflect the scores from the equivalent test (in place of the previous invalidated scores) and shall be aggregated at the school, district, and state levels.

(C) Breach test forms of the OSTP shall only be made available through the OSDE Office of Assessments if determined practicable by the State Department of Education.

(5) If extreme changes in test scores or in academic performance data occur for a school or district from year to year, an investigation shall be conducted, which may include, but not be limited to, data forensics analysis, and results of any apparent testing irregularity or misconduct reported to the State Board of Education for possible further action, which may include but not be limited to, score invalidation.

(6) Statewide student response patterns shall be analyzed for aberrant responses for each school and district through data forensics methodologies. The results shall be triangulated with observational and other accountability data to be included in the Academic Assessment Monitoring Program (AAMP).

(7) Steps for Dealing with Reported Testing Irregularities or Misconduct

(A) **Step One.** When the State Department of Education receives credible evidence of a testing irregularity or misconduct, the State Department of Education Office of Assessments shall promptly notify the school site and/or school district involved.

(i) The school district shall have at least thirty (30) calendar days to conduct an investigation of the alleged testing irregularity and provide the State Department of Education with a written response.

(ii) In the event that the testing irregularity occurred as a result of testing misconduct or test security violations, the school site and/or school district shall be required to include an explanation in its written response of how the testing misconduct/irregularity occurred and a description of the measures taken to prevent the misconduct from occurring again.

(B) **Step Two.** The testing irregularity or misconduct shall be categorized into one of three violation categories (minor, major, and critical) according to the severity of the violation and its possible consequences. Possible consequences may include, but not be limited to, invalidation of scores, accreditation with deficiency, accreditation with warning, accreditation with probation.

(C) **Step Three.** At the end of each testing period, a testing irregularity report shall be prepared by the State Department of Education Office of Assessments for review by the State Superintendent and possible further action.

(c) Procedures for Schools to Review Data Reports and ~~Appeal~~ Accountability Decisions Calculations.

~~(1) To assure the validity of accountability decisions prior to the release of the list of schools identified for school support and improvement as required by federal law, the State Department of Education will forward to schools the preliminary data reports~~

containing component pieces from the school district, testing vendor, and the State Department of Education. Each school district must review these component pieces for accuracy and report any inaccuracies to the entity supplying the information within the applicable timelines. If the school district does not report inaccuracies within the timeline the State Department of Education will rely on the data in the preliminary data report.

(2) Upon receiving their preliminary data reports from the State Department of Education for use in creating School and District Report Cards, districts shall review the data in the preliminary data reports and report any discrepancies with the data components previously reviewed by the district to the State Department of Education within the specified timeline.

(3) Subsequent to the review of the preliminary data report, if a principal of a school believes that the accountability designation contained in the data report is in error the principal shall provide supporting evidence to the district. The district must consider the evidence and if warranted, request an appeal in writing to the State Department of Education. The State Department of Education must receive the appeal request within ten working days of the electronic release of the data reports.

(4) When a school district or charter school appeals an accountability designation, the appeal request will be sent to the State Department of Education on the appeal form or other electronic submission method provided by the State Department of Education. The school district or charter school must specify on the form if a hearing pursuant to 75 O.S. § 309 is requested. If such a hearing is requested, the district must provide a written waiver of the right of the district to receive a final determination from the State Department of Education within the period required by federal law. In that event, all parties will cooperate to expedite the hearing process. If a hearing pursuant to 75 O.S. § 309 is not requested, the school district must submit written evidence supporting its appeal with the appeal request. The district may also request to address the School Status Designation Appeals Committee in person or by telephone. All appeal requests will initially be reviewed by the Office of Accountability to determine whether the appeal request remains with the School Status Designation Appeals Committee or is forwarded to the State Superintendent for a hearing pursuant to 75 O.S. § 309. The School Status Designation Appeals Committee may consist of members of the State Department of Education's cabinet membership and may also include additional members appointed by the State Superintendent. The Appeals Committee will review the district's evidence submitted with the appeal and if requested, hear comments from the school district, before providing a final determination in writing within forty five (45) days from release of the data reports.

(5) At the end of the State Department of Education Appeals process, the State Department of Education shall report to the State Board of Education the statewide list of schools identified for comprehensive and targeted support and improvement.

~~(6) School sites shall be provided an opportunity to review all data used to calculate the school performance grade and the calculation of the school performance grade.~~

~~(A) Initial data verification of the data used to calculate school performance grades shall occur throughout the school year as data becomes available to the State Department of Education. School district accountability staff shall have the opportunity to perform data verification and confirm that data being used to calculate school performance grades are accurate prior to the review period required by (c)(6)(B) of this section. The school district shall have at least fifteen (15) calendar days to review and request corrections to each new data component as it becomes available. No requests for changes to data shall be made after the expiration of the review period. For purposes of this paragraph only, a "new data component" means a data component that has not been previously submitted to the State Department of Education in accordance with other state or federal reporting requirements.~~

~~(B) Prior to the final release of school performance grades, a school district shall have at least ten (10) calendar days to certify the calculation of the performance grade. If the school district determines that a different performance grade should be assigned because of the omission of certified student data, a data miscalculation, or special circumstances that might have affected the grade assigned, school districts may submit a request for a review of the data calculation to the State Department of Education. All evidence supporting the district's claim of a calculation error and documentation of all elements to be reviewed by the Department must be submitted within the time limits specified in this subsection. No request for review of the calculation shall be accepted after the expiration of the review period. Changes to the criteria, data, or process shall not be considered as part of this review.~~

~~(C) To ensure timely issuance of the school report cards in accordance with the requirements of 70 O.S. § 1210.545, any data component verification or calculation verification for which a district fails to timely review and certify as accurate in accordance with the provisions of (A) or (B) of this subsection shall be deemed certified as accurate by the school district and districts shall not be permitted to request further corrections to the data.~~

(1) School sites shall be provided an opportunity to review all data and calculations used in the school accountability system.

(A) Initial data verification of the data used to calculate school accountability shall occur throughout the school year as data becomes available to the State Department of Education. School district accountability staff shall have the opportunity to perform data verification and confirm that data being used to calculate school performance grades are accurate prior to the review period required by (c)(1)(B) of this section. The school district shall have at least fifteen

(15) calendar days to review and request corrections to each new data component as it becomes available. No requests for changes to data shall be made after the expiration of the review period. For purposes of this paragraph only, a "new data component" means a data component that has not been previously submitted to the State Department of Education in accordance with other state or federal reporting requirements.

(B) Prior to the final release of school accountability results or designations, a school district shall have at least ten (10) calendar days to certify the calculation of accountability indicators. If the school district determines that a different accountability score should be assigned because of the omission of certified student data, a data miscalculation, or business rule misapplication, school districts may submit a request in writing for a review of the data calculation to the State Department of Education using the process established by the Department. All evidence supporting the district's claim of a calculation error and documentation of all elements to be reviewed by the Department must be submitted within the time limits specified in this subsection. No request for review of the calculation shall be accepted after the expiration of the review period. Changes to the criteria, data, or process shall not be considered as part of this review.

(C) To ensure timely issuance of the school report cards in accordance with the requirements of 70 O.S. § 1210.545, any data component verification or calculation verification for which a district fails to timely review and certify as accurate in accordance with the provisions of (A) or (B) of this subsection shall be deemed certified as accurate by the school district and districts shall not be permitted to request further corrections to the data.

(2) At the end of the State Department of Education review process, the State Department of Education shall report to the State Board of Education the statewide list of accountability results and schools identified for comprehensive and targeted support and improvement.

~~(d) **Schools identified for support and improvement.** Schools that earn an F on the Oklahoma School Report Card and any high school with a graduation rate of 67% or lower will be identified for comprehensive support and improvement. Those identified for comprehensive support and improvement must include the lowest performing 5% of Title I schools as required under federal law. Schools that do not meet exit criteria as defined in Oklahoma's ESSA State Plan within three (3) years will be required to implement more rigorous interventions.~~

(d) Limits on data used in accountability.

(1) Data from all students not enrolled in a district for a full academic year shall be disaggregated and shall not be used to determine the accountability results of the district (with the exception of high school graduation rates), according to federal law. Data from all students not enrolled in a school site for a full academic year shall be disaggregated and shall not be used to determine the progress of the school site (with the exception of high school graduation rates), according to federal law. For purposes of accountability, a

student shall be considered a "Full Academic Year" (FAY) student if the student is enrolled within the first twenty (20) instructional days of the school's instructional year through and including the date defined by the State Department of Education pertinent to the specific measure (e.g., the beginning of the OSTP assessment period), without an enrollment lapse of ten (10) or more consecutive instructional days.

(2) For purposes of the Oklahoma School Accountability System, the data of all students who have been placed in a state juvenile facility by state law or court order, or students placed in a full time residential facility providing educational services to students by joint agreement with one or more school districts shall not be used to determine the accountability results of the site or the district of residence of the students. Instead their scores will be used in accountability calculations in one statewide "quasi-district".

~~**(e) Rewards for public elementary and secondary schools that reach academic performance targets.** Subject to the availability of funds, public elementary and secondary schools that reach academic performance targets shall be eligible for recognition by the State Board of Education.~~

(e) Schools identified for support and improvement. Schools that earn an F on the Oklahoma School Report Card and any high school with a graduation rate of 67% or lower will be identified for comprehensive support and improvement. Those identified for comprehensive support and improvement must include the lowest-performing 5% of Title I schools as required under federal law. Schools that do not meet exit criteria as defined in Oklahoma's ESSA State Plan within three (3) years will be required to implement more rigorous interventions.

~~**(f) Rewards for public elementary and secondary schools that reach academic performance targets.** Subject to the availability of funds, public elementary and secondary schools that reach academic performance targets shall be eligible for recognition by the State Board of Education.~~