UNITED STATES DEPARTMENT OF EDUCATION
OFFICE OF ELEMENTARY AND SECONDARY EDUCATION

Dear State Assessment and Accountability Directors:

The Department has received several inquiries from States that are developing or are beginning to implement alternate assessments based on modified academic achievement standards (AA-MAAS). In particular, States have raised questions regarding the peer review of those assessments and regarding the use of "interim and transition flexibility" for the inclusion of students with disabilities in adequate yearly progress (AYP) determinations. I am writing to you now to address those questions.

As is explained in the Department's Non-Regulatory Guidance for Modified Academic Achievement Standards, July 20, 2007 (AA-MAAS Guidance, available at: www.ed.gov/policy/speced/guid/nclb/twopercent.doc), no State is obligated to develop modified academic achievement standards or an AA-MAAS, but each State has the option to do so (see AA-MAAS Guidance, B-4). If a State chooses not to develop modified academic achievement standards, it must still ensure that all students with disabilities are appropriately assessed, and must include the assessment scores of all students with disabilities in AYP determinations. If, however, a State does choose to develop an AA-MAAS as part of its assessment and accountability system under Title I of the Elementary and Secondary Education Act of 1965 (ESEA), the modified academic achievement standards and the AA-MAAS must be reviewed and approved through the Department's peer review process (see AA-MAAS Guidance, D-15). To be approved, a State must demonstrate that its AA-MAAS meets the regulatory requirements for validity, reliability, accessibility, objectivity, and consistency with nationally recognized professional and technical standards.

Accordingly, any State that has already administered an AA-MAAS, or will administer an AA-MAAS in school year 2009–2010, and has not yet submitted documentation regarding that assessment for peer review must do so for the peer review that will be conducted March 22-26, 2010. These materials must be submitted to the Department by **March 1, 2010.** The documentation that must be included for a review of an AA-MAAS is delineated in the Department's Standards and Assessments Peer Review Guidance: Information and Examples for Meeting

Requirements of the No Child Left Behind Act of 2001, revised December 21, 2007 to include modified academic achievement standards, revised with technical edits January 12, 2009 (available at: http://www.ed.gov/policy/elsec/guid/saaprguidance.pdf).

With respect to the use of "interim" or "transition" flexibility, during the 2007–2008 and 2008–2009 school years, the Secretary permitted a State that was moving expeditiously to adopt and administer an AA-MAAS and that met the criteria established by the Secretary to use certain flexibility in accounting for the achievement of students with disabilities in AYP determinations. The Secretary offered this flexibility pursuant to the authority in 34 C.F.R. § 200.20(g), which explicitly limited this flexibility to the 2007–2008 and 2008–2009 school years. Accordingly, the transition flexibility that was previously offered is no longer available. As is explained in the AA-MAAS Guidance, however, the fact that the transition flexibility is no longer available does not prevent a State from developing and implementing an AA-MAAS (see AA-MAAS Guidance, D-16).

I hope this information is helpful. If you have any further questions regarding your State's AA-MAAS, please contact your standards and assessment state liaison at the Department.

Sincerely,

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Director
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