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(iii) Other evidence demonstrating that the test permits consistent assessment of individual skill and ability;

(iv) Evidence that the test was normed using—

(A) Groups that were of sufficient size to produce defensible standard errors of the mean and were not disproportionately composed of any race or gender; and

(B) A contemporary population representative of persons who are beyond the usual age of compulsory school attendance in the United States;

(v) Documentation of the level of difficulty of the test;

(vi) Unambiguous scales and scale values so that standard errors of measurement can be used to determine statistically significant differences in performance; and

(vii) Additional guidance on the interpretation of scores resulting from any modifications of the tests for persons with documented disabilities.

(12) The manual provided to test administrators containing procedures and instructions for test security and administration, and the forwarding of tests to the test publisher;

(13) An analysis of the item-content of each edition, form, level, and (if applicable) sub-test to demonstrate compliance with the required secondary school level criterion specified in § 668.146(b);

(14) For performance-based tests or tests containing performance-based sections, a description of the training or certification required of test administrators and scorers by the test publisher;

(15) A description of retesting procedures and the analysis upon which the criteria for retesting are based; and

(16) Other evidence establishing the test's compliance with the criteria for approval of tests as provided in § 668.146.

(Approved by the Office of Management and Budget under control number 1840–0627).

(Authority: 20 U.S.C. 1091(d))

[60 FR 61839, Dec. 1, 1995, as amended at 61 FR 31035, June 19, 1996]

§ 668.145 Test approval procedures.

Except as provided in § 668.143—

(a)(1) When the Secretary receives a complete application from a test publisher, the Secretary selects experts in the field of educational testing and assessment, who possess appropriate advanced degrees and experience in test development or psychometric research, to determine whether the test meets the requirements for test approval contained in §§ 668.146, 668.147, 668.148, or 668.149, as appropriate, and to advise the Secretary of their determinations;

(2) If the test involves a language other than English, the Secretary selects at least one individual described in paragraph (a)(1) of this section who is fluent in the language in which the test is written to advise the Secretary on whether the test meets the additional criteria, provisions, and conditions for test approval contained in §§ 668.148 and 668.149;

(b) The Secretary determines whether the test publisher's test meets the criteria and requirements for approval after taking the advice of the experts into account;

(c)(1) If the Secretary determines that a test satisfies the criteria and requirements for test approval, the Secretary notifies the test publisher of the Secretary's decision, and publishes the name of the test and the passing scores in the FEDERAL REGISTER.

(2) If the Secretary determines that a test does not satisfy the criteria and requirements for test approval, the Secretary notifies the test publisher of the Secretary's decision, and the reasons why the test did not meet those criteria and requirements.

(3) The test publisher may request that the Secretary reevaluate the Secretary's decision. Such a request must be accompanied by—

(i) Documentation and information that address the reasons for the non-approval of the test; and

(ii) An analysis of why the information and documentation submitted meet the criteria and requirements for test approval notwithstanding the Secretary's earlier decision to the contrary.

(d)(1) The Secretary approves a test for a period not to exceed five years from the date of the Secretary's written notice to the test publisher.

(2) The Secretary extends the approval period of a test to include the period of review if the test publisher re-submits the test for review and approval under § 668.144 at least six months before the date on which the test approval is scheduled to expire;

(e) The approval of a test may be withdrawn if the Secretary determines that the publisher violated any terms of the agreement described in § 668.150, or that the information the publisher submitted as a basis for approval of the test was inaccurate;

(f) If the Secretary revokes approval of a previously approved test, the Secretary publishes a notice of that revocation in the FEDERAL REGISTER. The revocation becomes effective 120 days from the date the notice of revocation is published in the FEDERAL REGISTER; and

(g) For test batteries that contain multiple sub-tests measuring content domains other than verbal and quantitative domains, the Secretary reviews only those subtests covering verbal and quantitative domains.

(Approved by the Office of Management and Budget under control number 1840–0627).

(Authority: 20 U.S.C. 1091(d))

[60 FR 61840, Dec. 1, 1995, as amended at 61 FR 31035, June 19, 1996]

§ 668.146 Criteria for approving tests.

Except as provided in § 668.143—

(a) Except as provided in § 668.148, the Secretary approves a test under this subpart if the test meets the criteria set forth in paragraph (b) of this section and the test publisher satisfies the requirements set forth in paragraph (c) of this section;

(b) To be approved under this subpart, a test shall—

(1) Assess secondary school level basic verbal and quantitative skills and general learned abilities;

(2) Sample the major content domains of secondary school level verbal and quantitative skills with sufficient numbers of questions to—

(i) Adequately represent each domain; and

(ii) Permit meaningful analyses of item-level performance by students who are representative of the contemporary population beyond the age of compulsory school attendance and have earned a high school diploma;

(3) Require appropriate test-taking time to permit adequate sampling of the major content domains described in paragraph (a)(2) of this section;

(4) Have all forms (including short forms) comparable in reliability;

(5) If the test is revised, have new scales, scale values, and scores that are demonstrably comparable to the old scales, scale values, and scores; and

(6) Meet all primary and applicable conditional and secondary standards for test construction provided in the 1985 edition of the *Standards for Educational and Psychological Testing*, with amendments dated June 2, 1989, prepared by a joint committee of the American Educational Research Association, the American Psychological Association, and the National Council on Measurement in Education incorporated by reference in this section. Incorporation by reference of this document has been approved by the Director of the Office of the Federal Register pursuant to the Director's authority under 5 U.S.C. 552(a) and 1 CFR part 51. The incorporated document is on file at the Department of Education, Office of Postsecondary Education, Room 4318, ROB–3, 600 Independence Avenue, S.W., Washington, D.C. 20202 and at the Office of the Federal Register, 800 North Capitol Street, N.W., Suite 700, Washington, DC. The standards may be obtained from the American Psychological Association, Inc., 750 First Street, N.W., Washington, DC 20026.

(7) Have publisher's guidelines for retesting, including time between test-taking, be based on empirical analyses that are part of the studies of test reliability; and

(c) In order for a test to be approved under this subpart, a test publisher shall—

(1) Include in the test booklet or package—

(i) Clear, specific, and complete instructions for test administration, including information for test takers on the purpose, timing, and scoring of the test; and

(ii) Sample questions representative of the content and average difficulty of the test;